DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 18

RIN 1018–AD04

Importation of Polar Bear Trophies From Canada Under the 1994 Amendments to the Marine Mammal Protection Act

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The U.S. Fish and Wildlife Service (Service) establishes application requirements, permit procedures, and a fee for the issuance of permits to import trophies of polar bears (*Ursus maritimus*) sport hunted in Canada, including bears taken before the enactment of the 1994 Amendments.

The Northwest Territories (NWT) is the only area in Canada that currently allows sport hunting. The Service finds that the NWT polar bear management program meets the general criteria in the Marine Mammal Protection Act (MMPA) and approves specific populations when provisions are in place to be consistent with the International Agreement on the Conservation of Polar Bears (International Agreement) and ensure the maintenance of the affected population at a sustainable level. The Service intends these findings to be effective for multiple sport-hunting seasons pending review as required under the MMPA.

DATES: This rule is effective March 20, 1997.

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SUPPLEMENTARY INFORMATION: On April 30, 1994, Congress amended the MMPA to allow for the issuance of permits to import sport-hunted trophies of polar bears legally taken by the applicant while hunting in Canada. At the present time, Canada is the only country that allows non-residents to harvest polar bears through a regulated sport-hunting program. Prior to the 1994 Amendments, the MMPA required those seeking authority to import polar bear trophies from Canada to obtain a waiver of the MMPA's moratorium on importing marine mammals. The Amendments provide for development of regulations to authorize the import of sport-hunted trophies by permit.

This final rule establishes the application requirements, permit procedures, issuance criteria, permit conditions, and issuance fee for such permits and makes the legal and scientific findings required by the MMPA. Under section 104(c)(5)(A) of the MMPA, before issuing a permit for the import of a polar bear trophy, the Service must make a finding that the applicant legally took the polar bear while hunting in Canada. In consultation with the Marine Mammal Commission (MMC) and after opportunity for public comment, the Service also must make the following findings: (A) Canada has a monitored and enforced sport-hunting program that is consistent with the International Agreement; (B) Canada has a sport-hunting program based on scientifically sound quotas ensuring the maintenance of the affected population stock at a sustainable level; (C) the export from Canada and subsequent import into the United States are consistent with the provisions of the Convention on International Trade in Endangered Species (CITES) and other international agreements or conventions; and (D) the export and subsequent import are not likely to contribute to the illegal trade in bear parts.

According to the Committee Report (H.R. Rep. No. 439, 103d Cong., 2d Sess. (1994)), Congress placed these provisions in the law partly to ensure that the import of polar bear trophies into the United States would not increase hunting demand in Canada that would result in unsustainable harvest levels. The Committee believed Canada's polar bear management program regulates harvest through a quota system based on principles of sustainable yield and Canada would base any increase in the harvest quota on scientific data showing the population had increased to such an extent as to support an increase in the quota.

This final rule provides information on polar bear biology and Canada's management program for this species. The Service discusses each of the legal and scientific findings for the NWT in relation to the information provided and made these findings in consultation with the MMC and after notice and opportunity for public comment.

The Service consulted with the Canadian wildlife authorities to gather information on Canada's program. Based on the best available scientific information on polar bear populations in Canada and current information on Canada's management program, the Service believes its findings are consistent with section 104(c)(5)(A) of the MMPA.

Application Procedures

Section 18.30 establishes the application requirements, permit procedures, issuance criteria, permit conditions, and fees to allow for the importation of polar bear trophies. The applicant also must meet the applicable requirements in 50 CFR Parts 13 (General permit procedures), 14 (Importation, exportation, and transportation of wildlife), 18 (Marine mammals), and 23 (Endangered species convention (CITES)). Thus, for example, all sport-hunted polar bear import permits will be subject to the conditions of the new § 18.30(e), as well as the prohibitions of § 18.12(c)(1) and (2) regarding the import of pregnant or nursing marine mammals.

To ensure the requirements are met, the sport hunter must submit an application to the Service's Office of Management Authority. The application form will outline the general information needed for permit processing and information specific to the import of a trophy of a polar bear taken in Canada. This includes information indicating that the applicant legally hunted the bear, the sex of the bear, and an itemized description of the polar bear parts to be imported (e.g., one female polar bear trophy consisting of a tanned hide, 2.5 m head to tail length, with claws attached and skull). Inheritors of trophies taken by a hunter who died prior to import of the trophy must provide documentation to show that he or she is the lawful heir.

The Service recognizes that some applicants may wish to apply for an import permit prior to sport hunting. The Service will accept such applications for processing but will not issue a permit until the applicant submits the permit issuance fee of $1,000 and any information that may not have been known at the time of application, i.e., an itemized description of the polar bear parts, sex of the polar bear, information indicating that the applicant legally harvested the bear, certification that the bear was not pregnant or nursing (i.e., in a family group) or a bear constructing or in a den at the time of take, documentation to confirm the bear was not pregnant at the time of take, and any available documentation to indicate the bear was not taken while part of a family group.

Definitions

The definitions in Parts 10, 18, and 23 of 50 CFR apply to this section.

The Service defined the term ''sport-hunted trophy'' to specify what parts of the polar bear are included in the term

and to stipulate that the permittee may only import such items for personal, noncommercial use. The Service considered the House Committee Report (H.R. Rep. No. 439, 103d Cong., 2d Sess. (1994)) in developing the definition. The report states that ''Trophies normally constitute the hide, hair, skull, teeth, and claws of the animal, that can be used by a taxidermist to create a mount of the animal for display or tanned for use as a rug. This provision does not allow the importation of any internal organ of the animal, including the gall bladder.''

The definition in this rule includes parts that are traditionally considered trophy items for personal display and excludes items such as clothing and jewelry. Since the definition includes skull, teeth, bones, and baculum (penis bone), the Service points out that these items must be marked in accordance with marking requirements for loose parts under the laws and regulations of Canada and the United States (§ 18.30(e)(7)).

The terms and conditions of the import permit govern the subsequent use of the trophy, outlining that even after import the permittee may only alter and use the trophy in a manner consistent with the definition of a sport-hunted trophy.

The Service defined the term ''management agreement'' for the purposes of this rule to mean a written agreement between parties that share a polar bear population which describes what portion of the harvestable quota will be allocated to each party and other measures that may be taken for the conservation of the population, such as harvest seasons, sex ratio of the harvest, and protection of females and/or cubs.

Review by the Marine Mammal Commission

The MMPA requires the Service to make the specific findings outlined in section 104(c)(5)(A) in consultation with the MMC, an independent Federal agency with statutory authority to make recommendations pursuant to Title II of the Act. On November 9, 1995, the MMC, in consultation with its Committee of Scientific Advisors, provided the Service substantive comments on the proposed rules. The Service carefully evaluated this advice, clarified some information with the Canadian Wildlife Service (CWS) based on the advice, and considered the information in making the decisions in this final rule.

Procedures for Issuance of Permits and Modification, Suspension, or Revocation of Permits

The general procedures to be followed for issuance, modification, suspension, or revocation of permits are set forth in 50 CFR Part 13 and 18.33. Section 18.33 outlines the application procedures required by section 104(d) of the MMPA. When Congress added section 104(c)(5) to the MMPA to allow for issuance of permits to import polar bear trophies, they did not exempt polar bear applications from the procedures in section 104(d) that require the Service to publish a notice of each permit application in the Federal Register for a 30-day public comment period.

Issuance Criteria

Before the Service can issue a permit, the Service must consider the issuance criteria of this section in addition to the general criteria in 50 CFR 13.21. The first issuance criterion provides that the specimen is ineligible for a permit if the applicant already imported it into the United States without a permit or if the Federal government seized it for illegal import.

The second and third issuance criteria specify what parts qualify under the definition as a sport-hunted trophy and stipulate who can be the applicant. The floor debate in the House of Representatives (140 Cong. Rec. H2725, April 26, 1994) emphasized that the intent of Congress was to limit import of polar bear trophies to the hunter who actually took the polar bear and who desires to import the trophy. If an individual who legally took a polar bear dies prior to the import, however, the heirs of that person's estate could apply for an import permit.

The Service took the next issuance criteria directly from the language of the law at section 104(c)(5)(A)(I)–(iv) and addresses determinations in regard to these criteria in the section on legal and scientific findings.

Permit Conditions

The general permit conditions in Part 13 of this subchapter apply. In addition, every permit issued is subject to the conditions currently in the regulations for marine mammal permits at § 18.31(d). These conditions require the permittee or an agent to possess the original permit at the time of import and to ensure a duplicate copy of the permit is attached to the container that holds the polar bear specimen while in storage or transit.

This rule adds eight conditions that help the Service make the legal and scientific findings required by the MMPA. These conditions specify that the permittee: may not import internal organs of the polar bear; may not alter and use the trophy except in a manner consistent with the definition of a sport-hunted polar bear trophy even after importing the trophy; may not import a polar bear that was a nursing bear or a female with such a bear (i.e., in a family group), a bear in a den or moving into a den, or a pregnant female, at the time of take; must ensure the import of a trophy is accompanied by a CITES export permit or re-export certificate; must import the trophy through a designated port, except for full mounts when accompanied with an exception to designated port permit; must import all parts of the trophy at the same time; must ensure the hide is permanently tagged and parts marked; and if the tag is lost, must present the trophy to the Service for retagging in a timely manner.

Duration of Permits

The Service designates the duration of the permit on the face of the permit. Permits for the import of sport-hunted polar bear trophies will be valid for no longer than one year, a timeframe that should allow for the import to occur.

Fees

The MMPA requires the Director to establish and charge a reasonable issuance fee for polar bear trophy import permits. The Service can issue the permit only after the applicant has paid the issuance fee which is due upon notice that the Service has approved the application. The issuance fee is in addition to the standard permit processing fee of $25 that is required at the time of application in accordance with 50 CFR 13.11(d).

The Service set the issuance fee at $1,000. The Committee Report outlined that the Committee considered a reasonable fee to range from $250 to $1,000. The Service believes this level of fee is appropriate given the use of such funds for polar bear conservation.

The MMPA further requires the Service to use all of the issuance fee for polar bear conservation programs conducted in Alaska and Russia under section 113(d) of the MMPA. The United States has concern for polar bear conservation worldwide, as shown by adoption of the International Agreement. The population shared between Alaska and Russia is of particular concern in light of renewed interest in polar bear hunting in Russia and the need for a well monitored and enforced conservation program in that country.

Scientific Review

The MMPA required the Service to undertake a scientific review of the impact of the issuance of import permits on the polar bear populations in Canada within 2 years from the enactment of the MMPA, that was by April 30, 1996. Due to the time it has taken to develop the final rule, the Service is setting the timeframe for this review as 2 years from the effective date of the final rule.

The review provides for the monitoring of the effects of permit issuance on Canada's polar bear populations and a means to guarantee the cessation of imports should there be an indication of a significant adverse impact on the sustainability of the Canadian populations. The Service is not defining the phrase ''significant adverse impact'' at this time but considers the intent of the 1994 Amendments was to require the Service not to issue trophy permits if the issuance of such permits was negatively affecting the sustainability of Canada's polar bear populations. Congressman Jack Fields, during the House of Representatives floor debate on the 1994 Amendments stated, ''A significant adverse impact means more than a simple decrease, ordinary fluctuation, or normal change in the population cycle. A decline should not be considered significant if the decline is of short duration, affects a minuscule percentage of the population, or does not jeopardize the sustainability of the species in the long term. The decrease must be proven to be directly related to the trophy imports by sport hunters and of such a magnitude as to warrant suspension of those imports. Even so, the issuance of permits should not be suspended unless Canada does not reduce the harvest quota in response to this decline.'' (140 Cong. Rec. H2725. April 26, 1994)

The MMPA requires the Service to base the review on the best scientific information available and solicit public comment. The final report must include a response to such public comment. The Director must not issue permits allowing for the import of polar bears taken in Canada if the Service determines, based on such review, that the issuance of permits is having a significant adverse impact on the polar bear populations in Canada.

Following the mandatory review of the impact of the issuance of permits on Canadian polar bear populations, the Director may conduct subsequent annual reviews. If the Director does undertake a review, the MMPI requires that the Service complete the review by January 31. The Director may not refuse to issue permits solely on the basis that the Service did not complete the review by January 31. However, the Director may refuse to issue permits if the Service cannot make the legal and scientific findings as described below.

Consideration of Population Stocks Under the MMPI

The language in the MMPI refers to both an ''affected population stock'' and ''affected population stocks,'' raising the question of whether the Service needs to make the findings on one population for the whole of Canada or on each of the 12 identified population stocks. Canada's polar bears have alternatively been described in terms of management units, subpopulations, or populations. Discussions of polar bears frequently use inconsistent terms. For example, one summary at the Polar Bear Specialist Group (PBSG) 1993 meeting referred to polar bears in terms of a ''circumpolar population,'' as ''Canadian populations,'' and ''world's polar bear sub-populations'' (PBSG 1995).

Section 3(11) of the MMPA defines the term ''population stock'' as ''a group of marine mammals of the same species or smaller taxa in a common spatial arrangement, that interbreed when mature.'' The decision to consider a segment as a distinct population includes relative discreteness of the grouping in relation to the whole, i.e., whether the population is markedly separate from other populations as a consequence of physical, physiological, ecological, or biological factors.

There have been difficulties in consistently defining population stocks for many marine species under the MMPA. Dr. Barbara Taylor (1995) in a NMFS administrative report pointed out that although the definition of population remains elusive, it can be critical to good management. She asserted that ''population stock'' in the MMPA has both a biological and management meaning. In her discussion, Dr. Taylor contended that two populations should be managed separately if interchange is low as there are potentially strong negative effects of treating large areas as single populations when mortality is concentrated in small areas. Dr. Taylor also suggested that ''maintaining the range of a species meets the MMPA objective of maintaining marine mammals as significantly functioning elements of their ecosystems.''

Canada's management program for polar bear recognizes 12 discrete populations with a set quota for human-caused mortality specific to each population. Canada recognizes that it is important when delineating populations for effective management to consider geographic barriers, distribution, abundance, rate of exchange, recruitment, and mortality. Harvest data and scientific research have provided information to show that each population is relatively closed, with a clear core area and minimal overlap. A recent publication by Bethke et al. (1996) provides information on the manner in which the NWT populations are delineated, including methods and types of statistical analyses involved. Lee and Taylor (1994) summarized information on harvest data and practices.

Since harvest data and scientific research of Canada's polar bears have provided information to show that interchange between populations is low and human-caused mortality is concentrated within localized areas, the Service believes the management of polar bears in Canada as discrete populations is consistent with the term ''population stock'' as used in the MMPA and helps to ensure the maintenance of the polar bear throughout its range in Canada. Thus, the Service looked at whether it could make the required findings of the MMPA for each of Canada's 12 polar bear populations.

Population Status and Distribution

Although polar bears occur in most ice-covered areas of the Arctic Ocean and adjacent coastal land areas, their distribution is not continuous. They are most abundant along the perimeter of the polar basin for 120 to 180 miles (200 to 300 kilometers) offshore. The primary prey of polar bears is the ringed seal (*Phoca hispida*), followed by the bearded seal (*Erignathus barbatus*), with the relative abundance of seals affecting the distribution of polar bears. The long-term distribution of polar bears and seals depends on the availability of habitat which is influenced by seasonal and annual changes in ice position and conditions (U.S. Fish and Wildlife Service (USFWS) 1995).

It is estimated that there are 21,000 to 28,000 polar bears worldwide (PBSG 1995). The number of polar bears in Canada is estimated at 13,120 and is dispersed among 12 relatively discrete stocks as discussed above (Government of the Northwest Territories (GNWT) unpublished documents on file with the Service) (Map 1).

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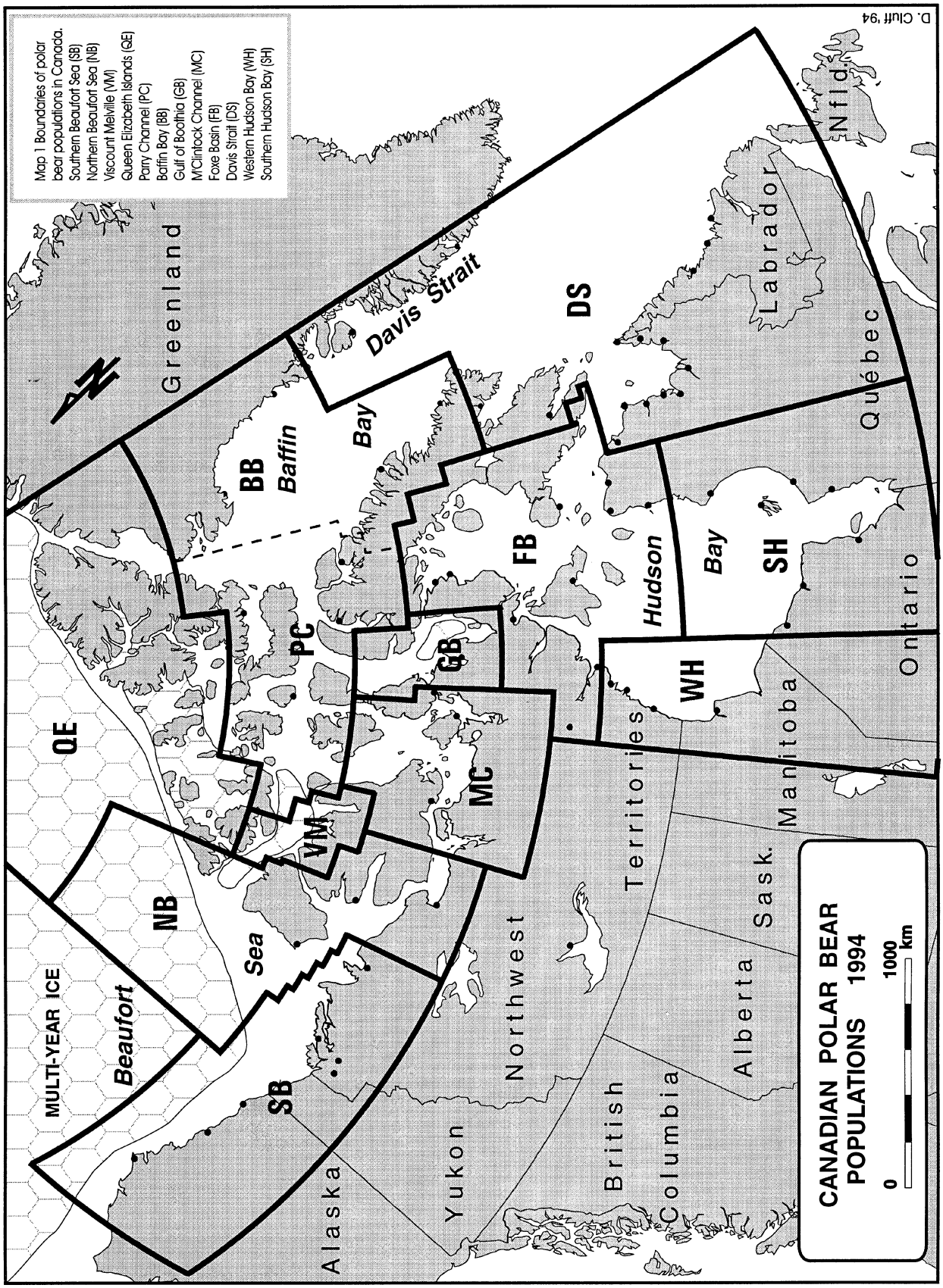

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Canada initially identified the boundaries of polar bear populations based on geographic features using reconnaissance surveys. Over time, Canada has confirmed and refined boundaries through scientific research on the movement of polar bears (e.g., mark-recapture, mark-kill harvest data, radio tracking, and satellite telemetry), local knowledge of bear movements, and physical factors affecting movements, such as ice formation and location of polynyas (i.e., areas where ice consistently breaks up and creates open water or areas where ice is refrozen at intervals during the winter) (GNWT). Canada expects to revise boundaries as research continues.

The boundaries of some of the 12 populations fall outside of Canadian jurisdiction. Specifically, extensive east-west movements of polar bears occur between northwestern Canada and northern Alaska, while in eastern Canada there is some information which demonstrates movement of bears between Canada and Greenland. The extent of this exchange is not yet clear.

Reproduction and Survival

Polar bears are intimately associated with Arctic ice. Based on the unpredictability in the structure of Arctic sea ice and associated availability of food, it is thought that adult males do not defend stable territories but may instead distribute themselves among different sea ice habitats at the same relative densities as solitary adult females (Ramsay and Stirling 1986). Males locate females that are ready to breed by scent and tracks. Polar bears mate while on the sea ice from late March through May, with implantation occurring in September. They typically form maternity dens in drifted snow in late October and November and cubs are born in December through January (USFWS 1995).

A summary of research data on the reproduction and survival in polar bears is given in Taylor et al. (1987) and Ramsay and Stirling (1986). Polar bears have a low birth rate and exhibit birth pulse reproduction. A small number breed for the first time at 3 years of age and slightly more at 4 years of age. Most females start to produce young at 5 or 6 years of age. Cubs remain with the female until they are about 2.5 years old, during which time the female avoids associating with adult males. This results in a skewed sex ratio, with fewer females available to breed in any one year than males and in intrasexual competition among males for access to breeding females. When the cubs are weaned, the female is again ready for breeding. Some females lose their cubs before weaning and are available for breeding the next season. Overall survival rates of cubs, adult female survival rates, litter size, and litter production rates affect the number of females available to breed. Females, on the average, breed every 3 years and stop reproducing at about 20 years of age.

Typically, each litter consists of two cubs with an overall 50:50 sex ratio. However, due to mortality, the average litter size ranges from 1.58 to 1.87 in the High Arctic populations to as high as 2.0 in Hudson Bay. The first year survival rate is high (0.70 to 0.85) because of the long period of female parental care. The life history strategy of the polar bear is typified by high adult survival rates (0.76 to 0.95) (GNWT).

Canada's Polar Bear Management Program

Polar bears occur in Canada in the Northwest Territories, in the Yukon Territory, and in the provinces of Manitoba, Ontario, Quebec, and Newfoundland and Labrador (Map 1). All 12 polar bear populations lie within or are shared with the NWT. The NWT geographical boundaries include all Canadian lands and marine environment north of the 60th parallel (except the Yukon Territory) and all islands and waters in Hudson Bay and Hudson Strait up to the low water mark of Manitoba, Ontario, and Quebec. The offshore marine areas along the coast of Newfoundland and Labrador are under Federal jurisdiction (GNWT).

Although Canada manages each of the 12 populations of polar bear as separate units, there is a somewhat complex sharing of responsibilities. While wildlife management has been delegated to the Provincial and Territorial Governments, the Federal Government (Environment Canada's CWS) has an active research program and is involved in management of wildlife populations shared with other jurisdictions, especially ones with other nations. In the NWT, Native Land Claims resulted in Co-management Boards for most of Canada's polar bear populations.

Canada formed the Federal-Provincial Technical and Administrative Committees for Polar Bear Research and Management (PBTC and PBAC, respectively) to ensure a coordinated management process consistent with internal and international management structures and the International Agreement. The committees meet annually to review research and management of polar bears in Canada and have representation from all the Provincial and Territorial jurisdictions with polar bear populations and the Federal Government. Beginning in 1984, members of the Service have attended meetings of the PBTC and biologists from Norway and Denmark have attended a number of meetings as well. In recent years, the PBAC meetings have included the participation of non-government groups, such as the Inuvialuit Game Council and the Labrador Inuit Association for their input at the management level. The annual meetings of the PBTC provide for continuing cooperation between jurisdictions and for recommending management actions to the PBAC (Calvert et al. 1995).

NWT Polar Bear Management Program

The GNWT manages polar bears under the Northwest Territories Act (Canada). The 1960 Order-in-Council granted authority to the Commissioner in Council (NWT) to pass ordinances that are applicable to all people to protect polar bear, including the establishment of a quota system. The Wildlife Act, 1988, and Big Game Hunting Regulations provide supporting legislation which addresses each polar bear population.

Although the Inuvialuit and Nunavut Land Claim Agreements supersede the Northwest Territories Act (Canada) and the Wildlife Act, no change in management consequences for polar bears is expected since the GNWT retains management and enforcement authority. Under the umbrella of this authority, polar bears are now co-managed through wildlife management boards made up of Land Claim Beneficiaries and Territorial and Federal representatives. One of the strongest aspects of the program is that the management decision process is integrated between jurisdictions and with local hunters and management boards. A main feature of this approach is the development of Local Management Agreements between the communities that share a population of polar bears. Management agreements are in place for all NWT populations. However, in the case of populations that the NWT shares with Quebec and Ontario (neither of which is approved under the criteria specified in this rule), the management agreement is not binding upon residents of communities outside of NWT jurisdiction.

The GNWT uses these agreements to develop regulations that implement the agreements. In addition to regulations to enforce the agreements, there is strong incentive to comply with the management agreements since they are developed co-operatively between the government and the resource users who directly benefit from the commitment to

long-term maintenance of the population. The interest and willingness of members of the community to conform their activities to observe the law reinforces other law enforcement measures. Regulations specify who can hunt; season timing and length; age and sex classes that can be hunted; and the total allowable harvest for a given population in Polar Bear Management Areas. The Department of Renewable Resources (DRR) has officers to enforce the regulations in most communities of the NWT. The officers investigate and prosecute incidents of violation of regulations, kills in defense of life, or exceeding a quota.

Harvest of Polar Bears

The hunting of polar bears is an important part of the culture and economy of indigenous peoples of the Arctic (PBSG 1995). Canada first imposed a hunting season in 1935; restricted hunting opportunities to Native people in 1949; and introduced quotas for polar bears in 1967. The harvest of polar bears was almost 700 in 1967/68, but dropped dramatically with the introduction of quotas. The largest increase occurred in the 1978/79 season when the quota was increased by 12 percent (Lee et al. 1994).

There often are a number of communities within the boundaries of each polar bear population. The total sustainable harvest for each population is divided among communities that harvest polar bears within the population boundaries. The resulting portions are referred to as the settlement quotas. When agreement on a community's settlement quota has been reached, that number of tags are provided each year to the Hunters' and Trappers' Organizations or Associations or Committees (HTO). Some communities may hold quota tags for several separate populations within their traditional hunting area, but communities may use tags only for the population for which the tags are issued (GNWT).

The GNWT does not administer sport hunting separately from other polar bear harvesting. An agent or broker usually arranges the polar bear sport hunts. In general, the agent or broker contacts the community's HTO to arrange for the hunt including the acquisition of a hunting license and tag for the hunter. If the community has not already decided what portion of its quota, if any, to designate for sport hunters, the HTO representative presents all requests for sport-hunting tags at a community meeting. The community decides on the number of tags designated for sport hunting. The tag cannot be resold or used by other sport hunters. In most cases the DRR officer retains the polar bear tags for sport hunts and provides them to the hunters. In a few cases, the HTO representative retains the tags and provides them to the hunters (GNWT).

There is substantial economic return to the community from sport hunts. The potential value of the actual hunt cost in 1993/94 in Parry Channel for one polar bear was $18,500 (US) with 80 percent of the money staying in the community. However, only a few communities currently take part in sport hunts as it reduces hunting opportunities for local hunters (GNWT). Table 1 summarizes the number of sport hunts that occurred in the different populations in the NWT for the 1992/93 and 1993/94 seasons. Overall, the number of quota tags used for sport hunting, including unsuccessful hunts, compared to the total known kill in the NWT averaged 10.9 percent for the 1989–1994 hunting seasons (Table 2).

Sport hunting for polar bears began in the NWT in 1969/70 with three hunts and gradually increased (GNWT). Over the five seasons between 1989–1994 the total number of sport hunts ranged from 37 to 66 (Table 2). All sport hunts are subject to certain restrictions. Sport hunts must be conducted under Canadian jurisdiction and guided by a Native hunter. In addition, transportation during the hunt must be by dog sled, the tags must come from the community quota, and tags from unsuccessful sport hunts may not be used again.

The success rate of a sport hunt is relatively high. The 1989–1994 seasons are characterized by success rates of 76 to 84 percent (Table 2), although the success rate does vary between populations (Table 1). Sport hunters typically select trophy animals, usually large adult males. For example, in the 1993/94 hunting season, 79 percent of polar bears taken as sport-hunting trophies were male (Table 1).

TABLE 1.—STATISTICS FOR POLAR BEAR SPORT HUNTING IN THE NWT FOR POPULATIONS IDENTIFIED AS SOUTHERN BEAUFORT SEA (SB), NORTHERN BEAUFORT SEA (NB), QUEEN ELIZABETH ISLANDS (QE), PARRY CHANNEL (PC), BAFFIN BAY (BB), GULF OF BOOTHIA (GB), AND FOXE BASIN (FB)

Population	1993/94 Season		1992/93 Season		
	Number killed (number not successful)	Sport hunt percent of total	Percent male	Number Killed (number not successful)	Percent of total
SB	3 (3)	9.7	67	1 (0)	2.7
NB	2 (3)	8.1	100	1 (1)	5.4
QE	0 (1)	1.6	.....	1 (0)	2.7
PC	26 (2)	45.2	85	22 (2)	64.9
BB	5 (0)	8.1	80	2 (1)	8.1
GB	7 (3)	16.1	86	4 (1)	13.5
FB	5 (2)	11.3	40	0 (1)	2.7
Total	48 (14)	.....	79	31 (6)	.....

TABLE 2.—SUMMARY OF SPORT HUNT KILLS IN NWT

Season	Total sport hunt	Number killed (percent success)	Known total kill in NWT	Percent total sport hunt to known kill in NWT
1989/90	60	48 (80)	537	11.2
1990/91	66	50 (76)	490	13.5

TABLE 2.—SUMMARY OF SPORT HUNT KILLS IN NWT—Continued

Season	Total sport hunt	Number killed (percent success)	Known total kill in NWT	Percent total sport hunt to known kill in NWT
1991/92	48	39 (81)	549	8.7
1992/93	37	31 (84)	506	7.3
1993/94	62	48 (77)	432	14.4
Average				10.9

Legal and Scientific Findings and Summary of Applicable Information

Currently, only the GNWT allows the sport hunting of polar bears. The Service reviewed the available scientific and management data for each of the 12 populations contained wholly or partly within the NWT and made findings to approve populations on an aggregate basis when the criteria of section 104(c)(5)(A) were met. The Service intends these findings to apply to bears taken in multiple harvest seasons, but can consider new information that may affect the findings at any time. If the Service determines by new information that the finding(s) are no longer supported, the Service must stop issuing import permits for sport-hunted trophies from affected polar bear population(s) following consultation with the MMC and after notice and opportunity for public comment.

The Service deferred making a decision on the remaining populations until further scientific and management data become available. Upon receipt of substantial new information, the Service will publish a proposal for public comment and consult with the Marine Mammal Commission. Any population found to meet all the criteria will be added to the list in § 18.30(i)(l).

A. Legal Take

1. Finding

The Service finds that the GNWT has a management program that ensures hunters are taking polar bears legally. This program includes the use of hunting licenses; quota tags; DRR officers in communities; collection of biological samples from the trophy and collection of data from the hunter; a regulated tannery; a computerized tracking system for licenses, permits and tags; and an export permit requirement to export the trophy from the NWT to other provinces. This is all within the context of the laws, regulations, and co-management agreements discussed earlier.

Under the 1994 Amendments the Service can issue permits only after the applicant submits proof that he or she took the polar bear legally. The Service will accept one of several different forms of documentation, as detailed in the regulations at § 18.30(a)(4).

2. Discussion of Legal Take

As described above, the agent or broker usually obtains the hunting license and tag for the hunter. Once the hunter has taken a polar bear, the DRR officer affixes a tag to the hide and collects biological samples. Polar bear tags are metal, designed for one-time use, and stamped with the words polar bear, an identification number, and the harvest year. The identification number in combination with the harvest year identifies the community to which the tag was assigned. If a tag is lost prior to being affixed to a hide, the hunter must report the lost tag number and other required information to the DRR officer prior to issuance of a replacement tag. In the event that the sport hunt is unsuccessful, the unused tag is destroyed.

By regulation, as soon as practicable after a person kills a bear, he or she must provide the following information to a DRR officer in the community, or a person who has been designated by the HTO and has the approval of a DRR officer: (a) the person's name; (b) the date and location where the bear was killed; (c) the lower jaw or undamaged post-canine tooth and, when present, lip tattoos and ear tags from the bear; (d) evidence of the sex of the bear; and (e) any other information as required. Except where an officer verifies the sex of the polar bear, the hunter must provide the baculum of the male polar bear for the purposes of determining sex. If proof of sex is not provided or an officer does not verify the sex of the bear, the GNWT will deem the bear to have been female for the purposes of population modeling.

Additional information, collected to complete a numbered Polar Bear Hunter Kill Return form, includes: community; polar bear population; harvest season; sex of the bear; approximate latitude and longitude of take using a map or description of the location with geographical references; general comments on the physical condition of the bear, including a measure of the fat depth; indication of whether the bear was alone or part of a family group (i.e., based on observation of the bears or bear tracks), including if the bear was a mother with cubs; estimated age class of the bear before tooth examination; disposition of the hide; hide value to the hunter; hunter's address and the hunter's license number; guide/outfitters name; and name of the DRR officer in the applicable community.

By NWT regulation, a licensed tanner must needle stamp each hide or pelt upon receipt so that the hide or pelt may be identified as belonging to a specific customer. Polar bear tags are not intended to remain on the hide during tanning. The tanner removes the polar bear tag and returns it to the owner of the hide.

In 1991, the DRR developed a Game License System to track all licenses, permits, and tags issued by the Department. It is accessible from any area of the NWT. All eight Regional Offices complete a monthly vendor return that contains information on all the licenses, permits, and tags issued during that month. The DRR can generate reports and searches as needed. Canada also maintains a computerized national polar bear harvest database. Up until quotas were established in 1967/68, harvest data were recorded opportunistically. Since 1977/78 all harvests have been recorded. If needed, Canada could track a polar bear trophy imported from Canada to the individual who took the bear.

An exporter of wildlife, including polar bear parts, must obtain a NWT Wildlife Export Permit from a DRR officer prior to export. The hunter must show the hunting license and submit the tag, either removed for tanning or removed at the time of export. The exporter also must obtain a CITES export permit prior to export of the polar bear parts from Canada (see discussion in the section on CITES) (GNWT).

B. 1973 International Agreement on the Conservation of Polar Bears

During the 1950's and 1960's, there was a growing international concern for the welfare of polar bear populations. The primary concern was that the increased number of bears being killed could lead to endangerment of populations. In 1968, biologists from the five nations with jurisdiction over polar bears (Canada, Denmark (for Greenland), Norway, the United States, and the former Union of Soviet Socialist Republics) formed the PBSG under the auspices of the International Union for Conservation of Nature and Natural Resources, now known as the World Conservation Union (IUCN). This group was in large part responsible for the development and ratification of the International Agreement, which entered into force in 1976 for a 5-year period and was reaffirmed in 1981 for an indefinite period. Greenland was later provided recognition through ''Home-rule'' although the Government of Denmark maintained its role in affairs of international scope.

The International Agreement unites nations with a vested interest in the Arctic ecosystem in supporting a biologically and scientifically sound conservation program for polar bears. It is a conservation tool that provides guidelines for management measures for polar bears. It defines prohibitions on the taking of polar bears as well as the methods of taking, and identifies action items to be addressed by the signatories, including protection of polar bear habitat and conducting research for polar bear.

The International Agreement is not self-implementing and does not in itself provide for national conservation programs. Each signatory nation has implemented a conservation program to protect polar bears and their environment (USFWS 1995). In the United States, the MMPA implements the International Agreement. Since the International Agreement left implementation and enforcement to each nation, different interpretations resulted in a diversity of practices in managing polar bear populations (Prestrud and Stirling 1995).

The main purpose of the PBSG is to promote cooperation between jurisdictions that share polar bear populations, coordinate research and management, exchange information, and monitor compliance with the International Agreement. The 1993 PBSG meeting concluded, ''Overall, it seemed that all countries were complying fairly well to the intent, if not necessarily the letter of the Agreement'' (PBSG 1995). Prestrud and Stirling (1995) concluded that the influence of the International Agreement on the circumpolar development of polar bear conservation has been significant and polar bear populations are now reasonably secure worldwide.

1. Finding

The Service finds that the GNWT has a monitored and enforced sport-hunting program that is consistent with the purposes of the International Agreement as required by the 1994 Amendments with the following limitation. The Service only approved populations where provisions are in place to protect females with cubs, their cubs, and bears in denning areas during periods when bears are moving into denning areas or are in dens. At this time the Service has deferred making a final decision for the Southern Hudson Bay or Foxe Basin populations. These populations share polar bears with Ontario and Quebec, respectively. Neither province has legislation to protect such bears or a written agreement with the GNWT to afford such protection. Native hunters of both provinces have agreed to protect females with cubs, their cubs, bears moving into dens, and bears in dens. However, given the limited reporting and collection of harvest information in Quebec and Ontario (PBSG, 1995) it is not possible to determine the effectiveness of the respective management programs to protect females with cubs, their cubs, bears moving into dens or bears in dens. As new management data become available on these populations, the Service will evaluate the data as to whether a proposed rule should be published to consider adding the populations to the approved list in § 18.30(i)(1).

2. Taking and Exceptions

Article I of the International Agreement prohibits the taking of polar bears, including hunting, killing, and capturing. Article III establishes five exceptions to the taking prohibition of Article I as follows: (a) for *bona fide* scientific purposes; (b) for conservation purposes; (c) to prevent serious disturbance of the management of other living resources; (d) by local people using traditional methods in the exercise of their traditional rights and in accordance with the laws of that Party; and (e) wherever polar bears have or might have been subject to taking by traditional means by its nationals.

The International Agreement does not disallow sport hunting of polar bears. Mr. Curtis Bohlen, head of the U.S. delegation at the 1973 negotiations of the International Agreement, clarified to the Service (pers. comm. 1995) that the U.S. position, which was generally agreed to by all, was that sport hunting could occur if the countries could define the national territories and waters subject to national jurisdiction so the remainder of the Arctic Ocean would become a ''*de facto*'' polar bear sanctuary.

However, the somewhat overlapping nature of Article III.1.(d) and (e) has led to confusion over which exception is applicable to allowing a sport hunt or who may hunt. The Service views them as follows. Exception (d) vests the local people with their traditional hunting rights when exercised in accordance with national law, whereas exception (e) creates a *de facto* polar bear sanctuary by allowing the take of polar bears only where polar bears have or might have been taken by traditional means by its nationals. Part of the confusion in viewing these exceptions is caused by Canada's declaration that allows the local people to sell a polar bear permit from the quota to a non-Inuit or non-Indian hunter, a provision that is in accordance with the laws of Canada.

Baur suggests that one possible interpretation of exception (e) would be that only ''nationals'' of a country could take polar bears within that country's area of traditional taking. Under this interpretation it would be illegal for U.S. citizens to hunt polar bears outside the United States. Baur offered, however, that the best interpretation of exception (e) is that the intent of all the IUCN drafts was to establish a taking prohibition outside of national territories, with particular reference to the ''high seas.'' The Parties chose to define a sanctuary area for polar bears in the Arctic Ocean by limiting the area within which taking could occur to those where hunting by traditional means occurred. Since such hunting was conducted mostly by Natives by ground transportation (e.g., dog teams, snowmobiles, etc.), the area affected seldom reached into the areas commonly understood to be ''high seas'' (Baur 1993).

Early drafts of the agreement included an exception to the prohibitions on killing polar bears for ''local people who depend on that resource.'' U.S. representatives, who were concerned that commercial dealers might hire local people to kill bears, felt the language was appropriate. Canadian representatives, on the other hand, wanted the words ''who depend on that resource'' deleted, arguing that the agreement should include the rights of people who are only culturally

dependent or even potentially dependent.

During development of the final document at the November 1973 meeting in Oslo, the delegates resolved the concerns raised by the terms ''high seas'' in Article III of the draft and ''local people who depend on the resource'' by specifying the vested class without resorting to geographic boundaries. A report to the Secretary of State from the U.S. delegation explained that the delegates agreed that ''there should be an overall prohibition on the taking of polar bears in Article I without specifying any geographic units and that the exceptions of Article III'' include exception (e), which in effect establishes a polar bear sanctuary. The report further explained that exception (d), allowing hunting by local people, did not appear to the U.S. delegation to be necessary because under exception (e) ''such hunting is of course permissible. However, some of the delegations felt that the Agreement would be more acceptable to their governments if the exception for local people was explicitly stated.''

Canada issued a declaration at the time of ratification of the International Agreement to clarify that it regards the guiding of sport hunters by aboriginal people, within conservation limits, to be allowed. The declaration states, ''The Government of Canada therefore interprets Article III, paragraph 1, subparagraphs (d) and (e) as permitting a token sports hunt based on scientifically sound settlement quotas as an exercise of the traditional rights of the local people.'' Canada declared that the local people in a settlement may authorize the selling of a polar bear permit from the quota to a non-Inuit or non-Indian hunter, provided a Native hunter guides the hunt, a dog team is used, and the hunt is conducted within Canadian jurisdiction.

The Canadian declaration did not define ''token sports hunt'' in terms of a specific percentage. In a May 1996 letter, the CWS wrote the Service that Canada did not define the term ''token'' at the time of the declaration and it would be difficult, if not impossible, to define it now. ''At the time the Agreement was signed, there was a fairly small number of Inuit guided sport hunts for polar bears taking place and no one knew whether or not the Inuit would continue to be interested in this option. However, it was strongly felt by Canada that if the Inuit wished to develop guided hunting, within scientific and legal constraints in order to realize a greater economic benefit, that their right to do so should be protected. The term 'token' was added because, in 1973, there was still a significant mood of public revulsion about the extremely unsportsmanlike hunting of polar bears from aircraft in Alaska and from large vessels in Svalbard. Consequently, the term 'token' in the Canadian letter of declaration was used to try to deflect or minimize unjustified negative public reaction to the inclusion of Inuit-guided hunts within a sustainable quota.'' Canada believes ''token'' should remain undefined since ''the important issue is that polar bears are being harvested within sustainable levels and the portion taken by Inuit-guided hunters is a matter for local people to determine for themselves.''

Neither the International Agreement nor Canada's declaration specifically restricts the proportion of hunts that can be sport hunts. Based on the above clarification from Canada and further review of the International Agreement, the Service dropped the proposed interpretation of ''token sports hunts'' as 15 percent of the total number of polar bear taken in the NWT. The Service believes that although it may be confusing that Canada has not defined ''token,'' as long as the quota is scientifically calculated and the NWT polar bear management program is sustainable, the International Agreement is not violated. Therefore, the Service is interpreting ''token sports hunt'' as sport hunts that are within conservation limits. The Service notes that any pressure to increase the quota as a result of an increase in sport hunting will be carefully examined by the Service in the course of its scientific review of the impact of import permits on the polar bear populations in Canada.

3. Protection of Habitat, Management of Polar Bear Populations, and the Prohibition on Taking Cubs and Females With Cubs

Article II of the International Agreement provides that Parties: (1) take ''appropriate action to protect the ecosystem of which polar bears are a part''; (2) give ''attention to habitat components such as denning and feeding site and migration patterns''; and (3) manage polar bear populations in accordance with ''sound conservation practices'' based on the best available scientific data (Baur 1993).

At the 1973 Conference, the Parties to the International Agreement adopted a non-binding ''Resolution on Special Protection Measures'' urging Parties to take steps to: (a) provide a complete ban on the hunting of female polar bears with cubs and their cubs and (b) prohibit the hunting of polar bears in denning areas during periods when bears are moving into denning areas or are in dens. In adopting this resolution, the Parties recognized the low reproductive rate of polar bears and suggested that the measures ''are generally accepted by knowledgeable scientists'' to be ''sound conservation practices'' within the meaning of Article II. While the signatory nations consider the prohibitions in the resolution important, they are not terms of the International Agreement itself and are not legally binding (Baur 1993). Although biologists at the 1993 PBSG meeting discussed the resolution, they did not reach agreement over the interpretation of whether females with their cubs and cubs are specially protected under the International Agreement (PBSG 1995).

Although the Service recognizes that the resolution is not binding, the 1994 Amendments require the Service to make a finding that Canada's management program is consistent with the purposes of the International Agreement. The resolution clearly falls within the purposes of sound conservation practices of Article II. Thus, the Service will only approve populations where provisions are in place to protect females with cubs, their cubs, and bears in denning areas during periods when bears are moving into denning areas or are in dens.

The Service finds that the GNWT meets the resolution to the International Agreement. At the time of the proposed rulemaking the GNWT wildlife regulations protected cubs-of-the year, 1-year-old cubs, and mothers of these bears. The GNWT in cooperation with the resource users have since revised all management agreements to protect all bears in family groups regardless of the age of the cubs (Ron Graf, DRR, personal communication). The Service has deferred a decision on the Southern Hudson Bay population that is shared with Ontario and the Foxe Basin population that is shared with Quebec. These provinces have no legislation in place to protect such bears and no written management agreement with the GNWT to afford such protection. Upon receipt of substantial new management data, the Service will publish a proposal for public comment and consult with the MMC. If the Service finds that a population meets all the criteria, the population will be added to the list in § 18.30(i)(1).

4. Prohibition on the Use of Aircraft and Large Motorized Vessels

Article IV of the International Agreement prohibits the use of ''aircraft and large motorized vessels for the purpose of taking polar bears * * *

except where the application of such prohibition would be inconsistent with domestic laws.''

It is illegal in Canada to hunt, pursue, or scout for polar bears from aircraft (PBSG 1995). Native hunters may travel and hunt polar bears by 3-wheel ATV (all-terrain vehicles), snowmobile, and boats under 15 meters. Sport hunters and their aboriginal guides must conduct the hunt by dog team or on foot. Access to the communities is by air only, so sport hunters must fly to reach their destinations. Aircraft, snow machines, and boats are used sometimes to transport equipment, hunters, and dogs to base camps that can be a great distance from the community. The hunt continues from the base camp by dog team. Canada does not interpret transportation by air or other motorized vehicle to a place where the hunt begins as a violation of Article IV of the International Agreement (GNWT). The Service agrees with this interpretation. Baur (1993) explained that Article IV of the International Agreement ''followed strong opinion that the hunting of polar bears with aircraft should be stopped and, furthermore, that the prohibition against the use of large motorized vessels for taking was directed at the practice, which was particularly common in the Spitsbergen area, of hunting bears from vessels of 100 feet or longer.'' Article IV of the International Agreement, appears to address the use of aircraft for actually hunting the bear, not the use of aircraft as a means of transport to a base camp from which a hunt begins.

A second issue regarding the use of snowmobiles and aircraft is whether the use of such equipment opens up non-traditional areas of polar bear hunting, thus violating exception (e) of Article III.1. of the International Agreement. The Service believes that the use of snowmobiles and aircraft in the NWT for transportation in the course of a hunt does not violate exception (e). First, numerous historical accounts identify and document traditional land use areas for polar bear hunting in the NWT. In particular, the Inuit Land Use and Occupancy Project, which formed the basis of the Nunavut land claim, established much of the information on the historical and traditional land use by Inuit in the NWT (CWS 1996). Second, the delegates addressed concerns regarding the use of snowmobiles during development of the International Agreement. The report to the Secretary of State from the U.S. delegation to the Conference states, ''In regard to the snowmobile, which in many places has replaced the dog sled as the means of transportation for Eskimos, the polar scientists explained that in many circumstances it cannot penetrate the ice area as far as a dog sled can. Therefore, the use of the snowmobile should not diminish the area of protection.'' Similarly, due to the high operating costs and the inaccessibility of aviation fuel in many Arctic communities, airplanes cannot travel into areas that were not otherwise reached by traditional means such as dog sled.

C. Scientifically Sound Quotas and Maintenance of Sustainable Population Levels

The GNWT manages polar bear with a quota system based on inventory studies, sex ratio of the harvest, and population modeling using the best available scientific information. The rationale of the polar bear management program is that the human-caused kill (e.g., harvest, defense, or incidental kills) must remain within the sustainable yield, with the anticipation of a slow increase in number for any population. Each population is unique in terms of both ecology and management issues, and baseline information ranges from very good in some areas to less developed in others. But overall, polar bear populations in Canada are considered to be healthy (GNWT).

The text of the House of Representatives floor debate on the 1994 Amendments (140 Cong. Rec. H2725, April 26, 1994) states that the intent of the Amendments was not to change Canada's management program or to impose polar bear management policy or practices on Canada through the imposition of any polar bear import criteria. The Service agrees and believes the intent of Congress was to ensure ''* * * sport hunting of polar bears does not adversely affect the sustainability of the country's polar bear populations and that it does not have a detrimental effect on maintaining those populations throughout their range'' (Committee Report, H.R. Rep. No. 439, 103d Cong., 2d Sess. 34 (1994)).

1. Finding

Based on information as summarized in this final rule, the Service finds that the GNWT has a sport-hunting program, based on scientifically sound quotas, ensuring the maintenance of the affected population at a sustainable level for the following populations: Southern Beaufort Sea, Northern Beaufort Sea, Viscount Melville Sound (under a 5-year moratorium), M'Clintock Channel, and Western Hudson Bay with provisions that there are management agreements in place.

These are aggregate findings that are applicable in subsequent years. However, if the Service receives substantial new information on a population, the Service will review the information and make a new finding as to whether to continue to approve the population. If, after consultation with the MMC and notice and opportunity for public comment, the Service determines that the finding is no longer supported, the Service must stop issuing import permits for sport-hunted trophies from the affected polar bear population.

Prior to making the finding as required under § 18.30(d)(5), the Service will consider the overall sport-hunting program, including such factors as whether the sport-hunting program includes: (a) reasonable measures to make sure the population is managed for sustainability (i.e., monitoring to identify problems, ways of correcting problems, etc.); (b) harvest quotas calculated and based on scientific principles; (c) a management agreement between the representatives of communities that share the population to achieve the sustainability of the program through, among other things, the allocation of the population quota; and (d) compliance with quotas and other aspects of the program as agreed in the management agreement or other international agreements.

The Service has deferred making findings for the following populations: Queen Elizabeth Island, Parry Channel/Baffin Bay, Gulf of Boothia, Davis Strait, Foxe Basin, and Southern Hudson Bay. Upon receipt of substantial new scientific or management data on the overall sport-hunting program of any of these populations, the Service will evaluate whether a given population meets the issuance criteria after consultation with the MMC and notice and opportunity for public comment. If the decision is to approve a population, the Service will add it to the list at § 18.30(i)(1).

No person may import a polar bear prior to the Service's issuance of an import permit for the specific sport-hunted trophy.

2. Inventory

It is difficult and expensive to determine population trends for polar bears since they are distributed over vast areas in the Arctic environment. A minimum of 3 to 5 years of research is needed to gain a reliable population estimate, and data collection needs to continue for 10 to 20 years to detect significant changes (Prestrud and Stirling 1995). Each population in the NWT is assessed by periodic population

inventory done on a rotational basis. With study of two or more populations conducted concurrently, the time required to sequentially assess all 12 populations and then begin the process over again is projected to be 20 years.

The first part of the inventory process identifies the geographic boundaries of each population. The second part of the inventory process is to estimate the size of a population. The basic principle behind the use of mark-recapture and mark-kill data in wildlife management is that given a known number of identifiable animals, the rate at which those animals are recaptured or killed provides an assessment of the size of the population. By regulation, a person must submit to the DRR at the time of harvest of the bear the lip tattoos or ear tags applied to polar bears in the course of population inventories. The GNWT monitors the sex and age structure of the harvest. Changes in the sex and age of the harvest over time provide insight into whether the population may be increasing or declining.

The GNWT then uses this information to calculate a sustainable level of harvest. Should mark-kill data, information from the monitoring program, or reports from local hunters suggest a problem with a particular population, Canada could shorten the period between assessments depending on the availability of research resources.

Canada incorporates data from ongoing research into management practices as appropriate. Management of this species is based on information from studies that have been published in reports, conference proceedings, and refereed scientific journals.

3. Calculation of Sustainable Harvest

Polar bears are a long-lived and late maturing species that have a low annual recruitment rate. Their life history strategy is a reliance on a constantly high adult survival rate and stable recruitment. Consequently polar bears are particularly vulnerable to overharvest. Conservation management and comparisons with other long-lived species suggest that noncompensatory harvest models are most appropriate for polar bears (Taylor et al. 1987).

The GNWT manages polar bears under the assumption that the polar bear populations are experiencing maximal recruitment and survival rates (e.g., no density effects). The estimated sustainable rate of harvest is then the maximum sustainable harvest. When the Service inquired why this assumption was made, the GNWT responded that they believe it is a legitimate and conservative approach. Little is known about density-dependent population regulation in bears, including polar bears (Taylor et al. 1994). The current data are insufficient to determine if the mechanism is mainly nutritional, mainly social, or a combination of social and nutritional. In addition, the study of density effects on polar bears would be a long-term proposition and very expensive due to the slow growth rates, high environmental variability, and behavioral plasticity of the species. The intention of the GNWT is to ensure the conservation of existing populations with good data and management before doing more experimental work. They believe the need for information on density effects will increase as populations slowly increase under the current management system, and anticipate that their periodic inventory and subsequent management changes will provide information on how polar bear populations respond to various density levels over the long term (GNWT).

Based on a model developed cooperatively between all jurisdictions managing polar bears, it was demonstrated that the two most critical parameters for estimating sustainable harvest are population numbers and adult female survival rate (Taylor et al. 1987a). As a result of sampling biases in the available data, Canada simplified the detailed analysis to contain only the most important features. One such simplification involved the use of pooled best estimates for vital rates for all Canadian polar bear populations. Using the pooled best estimates for vital rates, the polar bear harvest model indicated that the sustainable harvest (H) of a population could be estimated as:

$$H = N\,(0.015/P_f),$$

where N is the total number of individuals in the population and P_f is the proportion of females in the harvest measured directly from the harvest returns. The formula can also be modified for populations with different renewal rates and, if new information becomes available, on birth and death rates (GNWT).

Table 3 provides information on each population including the population estimate, the total kill (excluding natural deaths), percentage of females killed, and the calculated sustainable harvest for the 1993/94 harvest season and averaged over the preceding three and five seasons. Based on this information, the status of the population is designated as increasing, stable, or decreasing, represented by the symbols ''+'', ''0'', ''−''. The population status is expressed as the difference between the calculated sustainable harvest and the kill. For example, the calculated sustainable harvest for the Southern Beaufort Sea 1993/94 harvest season was 81.1. Since the total kill was 64, the harvest of polar bears in the Southern Beaufort Sea did not exceed the sustainable yield. Therefore, the population had the potential to increase. In contrast, the Foxe Basin (FB) kill exceeded the sustainable harvest, thus the population status is represented as declining.

TABLE 3.—POPULATION STATUS FOR CANADIAN POLAR BEAR POPULATIONS INCORPORATING HARVEST STATISTICS FROM 1989/90 TO 1993/94. THE POPULATIONS ARE IDENTIFIED AS FOLLOWS: SOUTHERN BEAUFORT SEA (SB), NORTHERN BEAUFORT SEA (NB), VISCOUNT MELVILLE (VM), QUEEN ELIZABETH ISLANDS (QE), PARRY CHANNEL (PC), BAFFIN BAY (BB), GULF OF BOOTHIA (GB), M'CLINTOCK CHANNEL (MC), FOXE BASIN (FB), DAVIS STRAIT (DS), WESTERN HUDSON BAY (WH), AND SOUTHERN HUDSON BAY (SH). THE PERCENT FEMALES (%♀) Statistic [1] Does Not Include Bears of Unknown Sex Except for Labrador (1991/92 AND 1992/93) AND GREENLAND (ALL 5 YEARS). HARVEST STATISTICS INCLUDE ALL REPORTED HUMAN-CAUSED MORTALITY OF POLAR BEARS. NATURAL DEATHS ARE NOT INCLUDED

Pop.[2]	Pop. estimate	Reliability*	5-Year average (1989/90–1993/94)		3-Year average (1991/92–1993/94)		Current Year (1993/94)		Population status** (5yr/3yr/1yr)
			Kill(%♀)	Sustainable harvest[3]	Kill(%♀)	Sustainable harvest[3]	Kill(%♀)	Sustainable harvest[3]	
SB	[6]1800	Good	60.4 (39.6)	68.2	66.0 (39.5)	68.4	64 (32.2)	81.1	+/+/+
NB	1200	Good	32.2 (49.4)	36.4	30.0 (45.5)	39.6	16 (50.0)	36.0	+/+/+
VM[4]	230	Good	5.2 (45.8)	1.2	2.0 (83.3)	0.7	2 (50.0)	1.1	−/0/0
QE	200	Poor	10.6 (32.1)	9.0	9.7 (24.1)	9.0	11 (29.3)	9.0	0/0/0

TABLE 3.—POPULATION STATUS FOR CANADIAN POLAR BEAR POPULATIONS INCORPORATING HARVEST STATISTICS FROM 1989/90 TO 1993/94. THE POPULATIONS ARE IDENTIFIED AS FOLLOWS: SOUTHERN BEAUFORT SEA (SB), NORTHERN BEAUFORT SEA (NB), VISCOUNT MELVILLE (VM), QUEEN ELIZABETH ISLANDS (QE), PARRY CHANNEL (PC), BAFFIN BAY (BB), GULF OF BOOTHIA (GB), M'CLINTOCK CHANNEL (MC), FOXE BASIN (FB), DAVIS STRAIT (DS), WESTERN HUDSON BAY (WH), AND SOUTHERN HUDSON BAY (SH). THE PERCENT FEMALES (%♀) Statistic [1] Does Not Include Bears of Unknown Sex Except for Labrador (1991/92 AND 1992/93) AND GREENLAND (ALL 5 YEARS). HARVEST STATISTICS INCLUDE ALL REPORTED HUMAN-CAUSED MORTALITY OF POLAR BEARS. NATURAL DEATHS ARE NOT INCLUDED—Continued

Pop.[2]	Pop. estimate	Reliability*	5-Year average (1989/90–1993/94)		3-Year average (1991/92–1993/94)		Current Year (1993/94)		Population status** (5yr/3yr/1yr)
			Kill(%♀)	Sustainable harvest[3]	Kill(%♀)	Sustainable harvest[3]	Kill(%♀)	Sustainable harvest[3]	
PC–BB	[6]2470	Fair	197.0 (30.7)	111.3	199.3 (31.5)	111.3	200 (31.9)	111.3	–/–/– (data uncertain)
GB	900	Poor	37.8 (40.4)	33.4	38.7 (36.5)	37.0	36 (40.0)	33.7	–/0/0
MC	700	Poor	30.4 (40.3)	26.1	27.3 (33.7)	31.2	24 (33.3)	31.5	–/+/+
FB[5]	2020	Good	128.6 (40.8)	74.3	125.0 (41.7)	72.7	100 (48.5)	62.5	–/–/–
DS	[6]1400	Fair	55.0 (41.6)	50.5	58.0 (38.2)	55.0	58 (36.2)	58.0	–/0/0
WH	1200	Good	44.8 (32.1)	54.1	41.3 (27.6)	54.1	32 (40.6)	44.3	+/+/+
SH	1000	Fair	59.0 (32.5)	45.0	51.0 (36.2)	41.4	45 (33.3)	45.0	–/–/0
Total[6]	13120		661.0	509.5	648.3	520.4	588	513.5	

*GOOD: Minimum capture bias, acceptable precision. FAIR: Capture bias problems, precision uncertain. POOR: Considerable uncertainty, bias and/or few data.

**A difference of up to 3 bears between the kill and sustainable harvest statistics was considered to be no change in status. (–=decrease 0=no change +=increase)

Notes:

[1] The percent of killed bears that are females is not regulated by law in all populations, but rather % Females is specified as a target in many of the Local Management Agreements.

[2] Local Management Agreements now exist for all populations except QE. These agreements are reviewed periodically as new information becomes available.

[3] Except for the VM population, the sustainable harvest is based on the sex ratio of the harvest, the population estimate (N) for the area and the estimated rates of birth and death (Taylor et al. 1987):

SUSTAINABLE HARVEST=(N×0.015)÷Proportion of Harvest that were Females.

Unpublished modelling indicates a sex ratio of 2 males to a female is sustainable, although the mean age and abundance of males will be reduced at maximum sustainable yield. Harvest date (Lee and Taylor, 1994) indicates that the harvest is typically selective for males.

[4] The rate of sustained yield of the VM population is one sixth that of the other populations because of lower cub and yearling survival, and lower recruitment. The projected proportion of the harvest that are females is 15% based on the intention to take only males. A 5-year voluntary moratorium on harvesting bears in the VM population began in 1994/95.

[5] Communities that harvest from the FB population have agreed to a phased reduction in quota. The final harvest level will be 91 bears or the sustainable yield as determined by subsequent population estimates by 1997.

[6] Totals refer to the sum of the all populations within or shared with Canada.

Modeling has shown that the sex ratio of the polar bear harvest is a critical factor in calculating the sustainable yield of polar bear populations (Lee et al. 1994). A selective harvest quota based on a harvest ratio of two males to one female can be 50 percent higher than an unselective one (GNWT). Increasing the harvest of males as a means of increasing the sustainable yield and conserving the reproduction potential of the population is a common technique in wildlife management. This is applicable particularly for species such as bears where mating is promiscuous and recruitment is primarily a function of the number of adult females (Taylor et al. 1987).

Since the GNWT bases the population quota, in part, on the sex ratio of the harvest, Local Management Agreements have been developed with the intention to limit the female kill by prescribing a harvest sex ratio of two males for each female. Some communities have the sex ratio as a target and others have it as a regulation. For both situations, the kill of female polar bears has exceeded the annual sustainable yield in some communities in some years. The DRR is seeking resolution to this problem including the development of conservation education materials in an effort to reduce take of females due to misidentification of sex. They revised a booklet on how to distinguish between males and females to incorporate suggestions from hunters and produced posters to encourage hunters to select for males. In addition, the DRR developed a revised system referred to as the ''Flexible Quota Option'', based on the number of female bears that can be taken annually. This system requires adoption into regulation prior to implementation (GNWT).

When Canada presented the sex-selective harvest model at the 1993 PBSG meeting, biologists raised concerns. One concern was the difficulty of accounting for compensation in the model if more females were taken. Also, there was concern that if the population model was incorrect or if ecological conditions changed substantially, there would be a delay of many years before managers would realize that the predictions of the model were incorrect. Some felt this delay was too high a risk for use as a management tool (PBSG 1995). The DRR is aware of the concerns and continues to monitor information on number, sex, and age of most polar bears harvested. In addition, local hunters are familiar with the relative abundance of polar bears in their areas and would likely notice significant increasing or decreasing trends in polar bear numbers. Because of both the monitoring program and the contribution of local knowledge, the DRR anticipates they would likely detect any overharvest or significant change in the population due to natural ecological reasons. The DRR plans to do a comprehensive risk analysis to consider all sources of uncertainty and to examine the inventory rotation period and the current standards for precision in the estimates of population size, but a date has not been set for its completion (Mitch Taylor, personal communication). Canada is co-operatively developing a simulation model to explore the effects of harvesting black, grizzly, and polar bears with the Ontario Ministry of Natural Resources (GNWT 1996).

4. Quota

In 1968 when the GNWT started to set quotas, the size of polar bear

populations on which to base sustainable quotas was largely unknown. So the GNWT introduced quotas on an interim basis considering previous harvest records for each community. After the late 1970's, quotas were increased on the basis of new scientific information for each population (Prestrud and Stirling 1995). Quotas continue to undergo adjustments based on new information. As a result of studies conducted since 1991 and earlier, quotas have been reduced for the M'Clintock Channel and Foxe Basin populations, and there is currently a moratorium on hunting in the Viscount Melville population. Presently, the calculated sustainable harvest for each population represents the population quota. The quota allocated is specific to each population. A quota allocated for one population cannot be used in another population. Quotas are not carried over from one year to the next.

The GNWT subtracts all human caused mortality from the quota, including polar bears killed in sport hunts, taken in defense of life or property, or shot illegally, as well as accidental deaths from research studies. Occasionally the quota is exceeded due to unexpected defense kills, mistakes, or illegal kills. Typically the GNWT deducts an overharvest from the following year's quota as a correction (GNWT). On an annual basis, the GNWT presents the population quotas and a summary of previous years harvest data for each population to the PBTC in a manner comparable to that shown in Table 3. The DRR has reported the reliability of each population estimate in qualitative terms (i.e., Good, Fair, or Poor) rather than quantitative because of bias in the population estimate as a result of sampling problems. The DRR expects they will use quantitative terms in future status reports as they complete population inventories (GNWT).

5. Status of Populations the Service Approves

The Service approved populations as meeting the required finding of section 104(c)(5)(A)(ii) of the MMPA based on currently available information. A list of the approved populations and general provisions are given in § 18.30(i).

Southern Beaufort Sea (SB)

The estimated population is 1,800 and is considered to be conservative. Mark-recapture and studies of movements using telemetry, conducted semi-continuously since the late 1960's in Alaska and the early 1970's in Canada have determined the boundaries of this population. The GNWT rates the population data as good. Table 3 shows the status of the population as increasing based on the 5-year and 3-year average of harvests and the 1993/94 harvest. Of the 64 bears taken in the 1993/94 harvest, 32.2 percent were females. Guiding of sport hunts occurs on a limited basis in the Canadian portion of the population. The number of sport hunts conducted for the 1993/94, and 1992/93 seasons was 6 and 1, respectively (GNWT).

The NWT and Yukon Territory share this population with Alaska. In Alaska polar bears are only taken for subsistence and handicraft purposes by Alaska Natives. Harvest of bears on either side of the international border affects the entire population. The Beaufort Sea boundary remains an issue of dispute between the United States and Canada as noted in the results of the Ottawa Summit. The United States views the Canadian jurisdiction to end at the equidistant line and no bears should be taken west of that line.

To date, the governments of the United States and Canada have not signed an international agreement for the joint management of the Southern Beaufort Sea population. However, in January 1988, representatives of the Inuvialuit Game Council (IGC) in the NWT and the Fish and Game Management Committee of the North Slope Borough (NSB) in Alaska (USFWS 1995) signed a management agreement for polar bears in the Southern Beaufort Sea. Although the agreement is not with the Canadian or U.S. governments, it is signed by both Native groups and continues to be successful overall (Prestrud and Stirling 1995). The agreement is a precedent-setting example of how Native groups can successfully manage traditional harvest practices through self-regulation. In Canada the agreement is consistent with previously existing regulations. In Alaska it is more restrictive than the MMPA (Nageak, Brower, and Schliebe 1991). The agreement has management restrictions that are consistent with the International Agreement. The agreement, among other things, calls for: (1) establishing harvest limits based on the best available scientific evidence; (2) prohibitions on the use of large vessels or aircraft for hunting polar bears; (3) protection of all bears in dens or constructing dens, pregnant females, cubs, and females with cubs; (4) a management system to regulate the number of polar bears harvested and to ensure compliance with harvest limit allocations; (5) a reporting system to collect critical information from harvested polar bears; and (6) protection of important polar bear habitat.

Under the agreement, the Native groups set the initial annual harvest quota for the Southern Beaufort Sea population at 38 bears each in Canada and Alaska. They share information pertinent to the status of the entire population in various ways, including the PBTC meetings, IUCN/PBSG meetings, and the annual Technical Committee meeting for the agreement.

Both Parties have agreed that all bears in dens or constructing dens are protected and family groups made up of females and cubs-of-the-year or yearlings are protected. During the first harvest (1988/89) under the management agreement take in Alaska exceeded the guidelines by 20, while the harvest in Canada was below the allocation. However the harvest during the next three seasons were less than allocation guidelines in both Alaska and Canada. It is believed that the reduced take by the second harvest season was due to extensive efforts to distribute information on the management agreement. In addition, there has been a general trend in Alaska to harvest fewer family groups (USFWS 1995).

The population is also shared by the Yukon Territory where the legal basis for regulating polar bears is the Wildlife Act, 1981. Currently there are no residents of the Yukon harvesting polar bears as the people all moved to the NWT. The Yukon wishes to retain their management system in case the aboriginals return to the Yukon coast and harvest polar bears. The Yukon has a total quota of six tags that they have loaned to the GNWT. These tags are included in the NWT quota (GNWT).

The Service approves the Southern Beaufort Sea population with the specific provision that hunters not take bears in Canada west of the equidistant line of the Beaufort Sea and that the general provisions in § 18.30(i) must be met. These provisions require the communities that share a population to have a management agreement that allocates portions of a scientifically sound quota among the parties.

Northern Beaufort Sea (NB)

Canada estimates the population at 1,200 polar bears and believes the estimate is unbiased and conservative. At intervals since the early 1970's, Canada has conducted mark-recapture and studies of movements using telemetry. They determined boundaries of the population using telemetry and recovery of tagged bears. An ongoing study is examining the possibility that this population extends further north than the data previously indicated. The GNWT rates the population data as good. Table 3 shows the status of the

population as increasing based on the 5-year and 3-year average of harvests and the 1993/94 harvest. Although the proportion of females in the harvest has been at or near 50 percent, the sustainable yield of females has not been exceeded. Guiding of sport hunters occurs on a limited basis. Only 2 to 3 sport hunts occurred in the two seasons between 1992–1994.

Viscount Melville Sound (VM)

Canada believes the population estimate of 230 polar bears to be unbiased. In 1992, Canada completed a 5-year mark-recapture and telemetry study of movements and population size. They based boundaries of the population on observed movements of female polar bears. In the mid-1970's when Canada allocated the original quotas, they thought this population was large and productive. This area, however, has poor seal habitat and the productivity of polar bears was lower than expected. Harvesting polar bears at the initial quota levels caused the number of bears in the population to drop, especially males. There is a moratorium on polar bear hunting in this population until the year 2000. The GNWT anticipates that when harvest activities resume, there will be an annual quota of 4 males. The Service does not consider this area as being available for U.S. sport hunters at this time.

Although all hunting is currently disallowed in this area, the Service approved the Viscount Melville population since there is a management program in place that includes measures to return and then maintain the population at a sustainable level.

M'Clintock Channel (MC)

In the mid-1970's, Canada conducted a 6-year mark-capture population study. They estimated the population to be 900 polar bears. Local hunters advised that 700 might be a more accurate estimate. Under a Local Management Agreement between Inuit communities that share this population, the harvest quota for this area has been revised to levels expected to achieve slow growth based on the more conservative population estimate of 700 polar bears. The recoveries of tagged bears and movements documented by telemetry in adjacent areas support the boundaries. Table 3 shows the status of the population as increasing based on the 3-year average and the 1993/94 harvest. Of the 24 bears taken in the 1993/94 harvest, 33 percent were females.

Although Canada considers the population estimate information as poor, the Service approved this population since the DRR in conjunction with local resource users have agreed to a reduction in the population estimate, hunting has been at a 2:1 ratio for several years, and there is a management agreement in place.

Western Hudson Bay (WH)

Canada believes the population estimate of 1,200 is conservative as a portion of the southern range has not been included in the mark-recapture program. Canada has conducted research programs on the distribution and abundance of the population since the late 1960's, with 80 percent of the adult population marked. Mark-recapture studies and return of tags from bears killed by Inuit hunters have provided extensive records. The GNWT rates the population data as good. Table 3 shows the status of the population as increasing based on the 5-year and 3-year average of harvests and the 1993/94 harvest. Of the 32 bears taken in last year's harvest, 40.6 percent were females. During the open-water season, this population is geographically segregated. During the ice-covered months there is some mixing of bears with the Foxe Basin and Southern Hudson Bay populations. However, such movements are believed to be very limited. Given the high number of marked bears in the Western Hudson Bay population and the recent, intensive study of the Foxe Basin population, substantial mixing of bears would be apparent if it were occurring.

The NWT shares the Western Hudson Bay population with Manitoba, where the Wildlife Act of 1991 lists the polar bear as a protected species. There is no open hunting season and polar bears cannot be hunted at any time of the year by anyone. To hunt polar bears, including hunting by Treaty Indians, requires a permit from the Minister and the Minister is not issuing permits at this time. The Local Management Agreement allocates a quota of 27 tags out of 55 for the Western Hudson Bay population to Manitoba. Manitoba holds eight tags in reserve for the control program and accidental deaths associated with the research program. They currently loan the remaining 19 to the GNWT for its quota (GNWT). This does not mean that there is a total ban on hunting polar bears in the future. The Minister can authorize the taking of bear for any purpose ''not contrary to public interest.'' The current policy is that no person will be granted a permit to hunt polar bear until it is established there is a harvestable surplus over conservation needs of the population that takes into account political and scientific concerns (Calvert et al. 1995).

6. Status of Populations for Which Scientific and Management Data are not Presently Available for Making a Final Decision

After reviewing the best available scientific and management data on the populations addressed below, the Service is not prepared to make a final decision on whether these populations satisfy the statutory criteria of section 104(c)(5)(A) of the MMPA. As future scientific and management data become available on these populations, the Service will evaluate such data to determine whether a proposed rule should be published that would add such populations to the approved list in § 18.30(i)(l).

Except for the Gulf of Boothia, the NWT shares all of the following populations with Greenland, another Canadian province, or both. Greenland and the other Canadian provinces do not have agreements with other NWT communities as to how they will manage their portions of the populations. Management agreements drafted in 1994 for the Davis Strait, Foxe Basin, and Southern Hudson Bay populations allocated existing harvest levels to NWT communities and documented current known annual harvest levels for Ontario, Quebec, Newfoundland and Labrador, and Greenland. Following completion of comprehensive population studies, the sustainable harvest of each population will be estimated and the user groups through joint negotiations will allocate the quotas. Canada and Greenland are conducting joint research to confirm shared population boundaries and population estimates. Upon completion of this joint research the two countries are expected to move ahead with negotiations on developing joint management agreements (GNWT).

Gulf of Boothia (GB)

Currently Canada estimates this population at 900 animals. Canada based a population estimate of 333 polar bears on a limited research program of mark and recapture restricted to the western coastal areas. They increased the population estimate to 900 based on the information from local Inuit hunters and an estimate of bears in the central and eastern portions of the area that Canada had not sampled. Although the 900 animal estimate has no statistical level of precision, managers believe it to be more accurate than the previous estimate. The population data is still considered limited and the GNWT rates the population data as poor. Studies conducted in adjacent areas support the boundaries. The status of the population

was stable at the 3-year average harvests and the 1993/94 harvest. Of the 36 bears taken in the 1993/94 harvest, 40 percent were females (Table 3). The number of sport hunts guided for the two seasons between 1992–1994 was 10 and 5, respectively.

The Service revised its proposed finding for this population given the lack of scientific data to support the population estimate and the harvest of females in excess of the quota. Although the GNWT considers the population estimate to be conservative, they substantially increased the estimate based primarily on anecdotal information. NWT polar bear managers rate the population data as poor. The Service believes that the strict requisite that the quota be ''scientifically sound'' has not been met. In addition, the slight but persistent overharvest of females in this population raises concerns as to whether there is effective management action.

Queen Elizabeth Island (QE)

Canada estimates the population at 200. Current information is that there are few polar bears in this remote area. The reliability of the data is poor. A likely scenario is that Canada will eventually manage this area as a sanctuary for polar bears. The status of the population was stable at the 5-year and 3-year average of harvests and the 1993/94 harvest. Of the 11 bears taken in last year's harvest, 29.3 percent were females. Only one sport hunt occurred during each of the past two seasons. A Local Management Agreement has not been finalized for this population. In addition, the NWT shares this population with Greenland although the movement of polar bears between the NWT and Greenland is thought to be small (see Parry Channel/Baffin Bay below).

Parry Channel (PC) and Baffin Bay (BB)

The Service is considering this area as a single unit in this rulemaking since Canada is still researching what fraction of the Greenland harvest was from either Parry Channel or Baffin Bay populations. Information on the amount of exchange between these populations in Canada and Greenland is important for management since communities in both countries harvest polar bears. Canada considers the current population estimate of 2,470 polar bears preliminary and conservative. Canada obtained the population estimate by pooling the previous estimates for Lancaster Sound (1,657, increased to 2,000, based on sampling bias in the original studies that could have resulted in an underestimate of the population) and NE Baffin (470) populations with the assumption that a distinct population for west Greenland would not be found. The GNWT rates the population data as fair. The status of the population as shown in Table 3 is decreasing for the 5-year and 3-year average of harvests and the 1993/94 harvest. The 1993/94 season's harvest was 200 bears (31.9 percent females). Most sport hunting has occurred in Parry Channel, 28 in 1993/94 harvest season and 24 in 1992/93. Limited guided sport hunts of 5 and 3 occurred in Baffin Bay during the same seasons (GNWT).

According to Born (1995) there is little information available on the take of polar bears in Greenland. There is no quota for harvest of polar bears in Greenland. Regulations prohibit the use of vehicles for the hunt and stipulate that hunters must be citizens of Greenland and hunt or fish full time. As of January 1, 1993, Greenland requires residents to obtain special permits to hunt polar bear. The reporting of take is voluntary, and the system of reporting has not worked reliably for many years. Greenland needs to obtain information on the number and sex ratio of bears taken in all areas and number of animals in the populations to establish a sustainable harvest level of polar bears. There is an ongoing Canadian-Greenland joint study to obtain data to delineate the range and number of bears in the shared populations. A summary of results of a polar bear survey suggests a harvest of 40 to 60 bears each year in West Greenland from the population shared with Canada (PBSG 1995). Recent satellite telemetry data indicates four populations: Lancaster Sound, Baffin Bay, Norwegian Bay, and Kane Basin. Local hunters have requested one more year of capture work to confirm the current estimates for Baffin Bay. At least two more years of mark-recapture work will be required to provide estimates for the Lancaster Sound, Kane Basin, and Norwegian Bay populations (GNWT 1996). Management agreements have been developed for these areas between GNWT and the local communities.

Foxe Basin (FB)

Canada concluded an 8-year mark-recapture and telemetry study of movements and population size in 1992. They believe the population estimate of 2,020 is accurate as they included the entire area in the marking effort. Polar bears were concentrated on the Southampton Island and Wager Bay areas during the ice-free season. But, significant numbers of bears were found throughout the other islands and coastal areas. Because Canada believes the previous harvest quotas to have reduced the population from about 3,000 in the early 1970's to about 2,000 in 1991, they incrementally reduced the harvest quota to levels that will permit recovery of this population. The reduction process is described in the NWT Local Management Agreements between the Inuit communities that share these polar bears. The GNWT rates the population data as good. Table 3 shows the status of the population as decreasing for the 5-year and 3-year average of harvests and the 1993/94 harvest. Of the 100 bears taken in last year's harvest, 48.5 percent were females.

The NWT shares the population with Quebec where the legal basis for regulating polar bear are the Wildlife Conservation and Management Act, 1983; the Order in Council 1 3234, 1971; and the James Bay International Agreement, 1978 (GNWT). Inuit and Indians are allowed to hunt polar bears from three different populations, based on the ''guaranteed harvest'' levels determined for the James Bay Agreement, as long as the they respect the principle of conservation (PBSG 1995). The guaranteed harvest levels are determined between the user groups and the Government of Quebec based on harvest records between 1976 and 1980. The harvest levels set are 22, 31, and 9 for populations shared in Southern Hudson Bay, Davis Strait, and Foxe Basin. The Inuit have agreed with the harvest levels, while negotiations are occurring with the Crees. If the Inuit exceed the ''guaranteed harvest'', which is uncommon, there is no penalty. The number and sex of polar bears in the harvest are monitored, with age determined on many of them. There has been, however, some concern expressed over the inconsistencies in harvest data. As previously mentioned, Native hunters have agreed to protect females with cubs, their cubs, bears moving into dens, and bears in dens but the collection of harvest information is sporadic and the effectiveness of the protection measures cannot be fully determined.

Davis Strait (DS)

Canada estimates the population at 1,400, based on field work conducted during the spring from 1976 through 1979. Traditional knowledge observations suggest that the population may have increased since 1979. These include that: (a) hunters from Pangnirtung reported larger numbers of bears in recent years and in 1994 took their entire quota in less than 2 days; (b) hunters from the Labrador Inuit Association reported seeing an

increased number of bears in the last several years; (c) hunters from Iqaluit report they harvest the highest proportion of males of any settlement in the NWT due to high densities of bears encountered; and (d) hunters from Lake Harbour reported a higher rate of encounters with polar bears in recent years. Observations made by biologists also support an increase in population size: (a) during surveys conducted in the fall of 1992 and 1993, observers found high densities of bears on the Cumberland Peninsula, Baffin Island; (b) the number of bears captured per hour of search time during 1991–94 on the Labrador coast almost doubled from 1976–79; (c) during the above surveys conducted in the 1990's, observers saw a large proportion of old adult males (such sightings would not occur in an overharvested population where the harvest was selective for males); and (d) satellite tracking data from 1991–94 indicate that a large proportion of the population is offshore in the pack ice during the spring and would not have been included in the capture and tagging as part of the 1980 population estimate.

The GNWT rate the population estimate data as fair. Based on population modeling that indicates the population would need to be at least 1,400 to sustain the present annual kill of 58 polar bear and observations by hunters and biologists, the 1995 PBTC supported revision of the population estimate from 950 to 1,400. Canada will need to do further work to resolve the status of polar bears in this population. A joint resolution was signed by Quebec and GNWT supporting a co-operative inventory of this population as a high priority. Table 3 shows the status of the population as stable for the 3-year average of harvests and the 1993/94 harvest. Of the 58 bears in last year's harvest, 40.6 percent were females.

The NWT shares the Davis Strait population with Quebec, Newfoundland and Labrador, and Greenland. For a discussion of Quebec, see Foxe Basin above. In Newfoundland and Labrador, the legal basis for regulating polar bear is the Wildlife Act, 1970. The current hunting season is limited to residents of the Torngat Electoral District on the northern Labrador coast, with no distinction made between Natives and non-Natives. To maintain consistency with the International Agreement, the Labrador Inuit Association issues the tags, with unused tags being accounted for. Land claim negotiations that may affect how polar bears are managed in Newfoundland and Labrador are currently underway. In typical years Greenland harvests no polar bears from the Davis Strait population. In some years, however, when ice blows onto southern Greenland, hunters take an average of two bears in Greenland. For additional discussion on Greenland's program, see Parry Channel/Baffin Bay above.

Southern Hudson Bay (SH)

Canada considers the population estimate of 1,000 to be conservative. They base the estimate on a 3-year study mainly along the Ontario coastline of movements and population size using telemetry and mark-recapture. Since Canada did not include a portion of the eastern and western coastal areas in the study area, they increased the calculated estimate of 763 bears to 1,000. In addition, because of difficulties locating polar bears inland from the coast in the boreal forest, the inshore was under-sampled. The study confirmed the population boundary along the Ontario coast during the ice-free season but showed the intermixing with the western Hudson Bay and Foxe Basin populations during the months when the bay is frozen over. The GNWT rates the population data as fair. Table 3 shows the status of the population as decreasing for the 5-year and 3-year average harvests, but as stable for the 1993/94 harvest. Of the 45 bears taken in last year's harvest, 33.3 percent were females.

The NWT shares this population with Quebec (see discussion under Foxe Basin) and Ontario. In Ontario, polar bears are protected under the Game and Fish Act, 1980. Treaty Indians are allowed to hunt polar bears with an annual permissible kill of 30 animals (GNWT). Ontario has supported the adoption of guidelines for dividing the quota for polar bear populations shared with the NWT and Quebec, but there is no joint management agreement. If hunters exceed the quota, which is uncommon, they are encouraged to count the excess polar bears against the next year quota. There are no officers located in the villages where polar bears are hunted. It was reported at the 1994 PBTC meeting that hunters are not reporting all known kills, resulting in incomplete data. Ontario does not specifically protect bears in dens and females with cubs. Although the take of such animals is believed to be rare, the omission in Ontario law to implement the resolution has been a point of concern to polar bear biologists and managers (PBSG 1995).

D. CITES and Other International Agreements and Conventions

1. Finding

The MMPA requires that the Service find that the export from Canada and subsequent import into the United States are consistent with CITES and other international agreements and conventions. Based on the discussion below, the Service finds that the provision of CITES will be met for the export and import of polar bear trophies taken in Canada. The Service discussed the International Agreement previously in this final rule. At this time, the Service is not aware of any other agreements or conventions that the Service needs to consider.

2. CITES

CITES is a treaty established to protect species impacted by international trade. Canada and the United States, along with 132 other countries, are Parties to CITES. The polar bear has been protected under Appendix II of CITES since 1975. Appendix II includes ''species which although not necessarily now threatened with extinction may become so unless trade in specimens of such species is subject to strict regulation in order to avoid utilization incompatible with their survival'' (Article II of CITES). A CITES export permit must accompany each shipment from the country of origin. A country can issue an export permit for dead specimens for any purpose as long as the scientific authority determines that the shipment will not be detrimental to the survival of the species and the management authority determines that the specimen was obtained legally.

Canada controls the export of polar bear trophies based on the harvest of polar bears under quotas enforced by legislation and co-management agreements. In the NWT, only the DRR Headquarters in Yellowknife and its Regional Offices can issue CITES permits for polar bears and polar bear products. Another Canadian province or territory can issue a CITES permit for a polar bear product originating in the NWT if the product was exported from the NWT with a Northwest Territories Wildlife Export Permit into that province or territory. Customs Canada must validate the CITES permit upon export.

For import into the United States, all wildlife and wildlife products requiring a permit under CITES and the MMPA must meet inspection and clearance requirements as outlined in regulation (50 CFR Part 14), including entry through one of the ports designated for

wildlife import and completion of a Wildlife Declaration Form (3–177).

E. Illegal Trade in Bear Parts

1. Finding

The Service finds that the import of sport-hunted polar bear trophies from Canada into the United States is not likely to contribute to the illegal trade in polar bear parts and/or the illegal trade in parts of all other species of bears, when such activity is done in accordance with the Service's regulations. The permittee must make an appointment with Service personnel at a designated port for Wildlife at least 48 hours prior to import for inspection and clearance under 50 CFR § 14.52. He or she must arrange for a Service Officer to affix a permanent tag to the trophy and mark hard parts upon import. The permittee also must import all parts of a single trophy at the same time. The Service will not consider exceptions to the designated port requirement except for the import of full mount trophies. Trophies may not be sent through the international mail. If the original tag is broken during tanning or is lost, the permittee must contact the Service to get the polar bear hide or mount retagged.

To ensure that the gall bladders of polar bears taken by U.S. hunters after the date of this final rule do not enter into trade, all applicants must certify that the gall bladder, including its contents, was destroyed.

2. Trade in Hides and Other Hard Parts and Tagging Requirement

Participants in the 1993 PBSG meeting reported that the fur market is currently glutted, resulting in low prices for polar bear pelts on the open market. A legal trade exists in Greenland that assists in marketing polar bear pelts for local communities. In 1992, the tannery purchased 60 hides. Thirty of these went to Denmark (PBSG 1995).

The MMPA prohibits, with limited exceptions, the import of polar bear parts into the United States as well as the harvest and trade of polar bears and polar bear parts in the United States. The MMPA restricts the take of polar bears to any Indian, Aleut, or Eskimo who resides in Alaska and who dwells on the coast of the North Pacific Ocean or the Arctic Ocean, provided such taking is not accomplished in a wasteful manner and is for subsistence purposes or is done for purposes of creating and selling authentic native articles of handicrafts and clothing.

All polar bear hides and skulls taken as part of the Native subsistence harvest in Alaska must be tagged within 30 days of harvesting the polar bear. Only Service personnel or authorized Service representatives (e.g., Native residents of the community) may tag the polar bear parts. The skin and skull of an animal must accompany each other when presented for tagging. Tags are attached to the skins and skulls in such a manner as to maximize their longevity and minimize any adverse effect to the appearance of the specified parts, or the resulting handicraft. Tags must remain affixed to the skin through the tanning process and until the skin has been severed into parts for crafting into handicrafts or for as long as practical during the handicrafting process. If the tag comes off of the specified part prematurely, the person in possession of the part has 30 days to present the part and broken tag to the Service or the Service's local representative for retagging.

As previously described, the NWT tag applied to a polar bear hide is removed either at the time of tanning or upon export. Therefore, once imported, a person could not distinguish raw or tanned hides, rugs, and mounts of Canadian sport-hunted polar bears from illegally imported Canadian polar bears or untagged Alaskan polar bear hides that may have been illegally acquired or transported. Thus, this rule is requiring the permittee to present the trophy to the Service for tagging and marking upon import. The Service Officer will affix a permanent-locking tag to all sport-hunted polar bear trophies including raw (untanned) hides, tanned hides, and prepared rugs and mounts and mark the skull of the polar bear, as well as other hard parts with the tag number of the accompanying polar bear hide. The permittee must ensure the tag and marks remain on the trophy and trophy parts indefinitely.

The Service has experience with tagging programs for polar bear, walrus, and sea otter taken in the Native subsistence harvest in Alaska and for CITES regulated fur-bearing species, including brown bear, bobcat, river otter, and lynx. Prior to making a decision on the type of tag to be used for sport-hunted polar bears, the Service considered: (1) information from Service personnel experienced with other tagging programs; (2) comments from taxidermists and tanners; (3) the condition of the trophy upon import (i.e., untanned hide, tanned hide, finished rug or mount); (4) the readability of identification marks on the tag; (5) the ability to replace lost tags; and (6) the effect of the tag on the overall appearance of the trophy. Based on these considerations, the Service will affix a plastic tag to the hide in the belly or flank area of all raw hides, rugs, or mounts in an area that is least disruptive to the taxidermy process, more likely to be concealed by the longer hair in these areas, and easily accessible to examination.

3. Trade in Gall Bladders

There is some illegal trade in bear parts in Canada, but the extent is unknown. While British Columbia, Alberta, Newfoundland and Labrador, and Manitoba prohibit the trade in bear parts, it is still legal to sell bear parts in Ontario, Quebec, Saskatchewan, and the NWT.

There is a diversity of opinion on trade in polar bear gall bladders. Resolution 5 of the 1993 PBSG meeting recommended that each party consider restricting the traffic in polar bear gall bladders. This was done in recognition that worldwide trade in bear parts, particularly gall bladders, threatens the survival of several species of bear, and that the legal availability of gall bladders of any species of bear makes it impossible to control the illegal trade, encouraging further illegal take of all species of bears, including polar bear (PBSG 1995). Canada's PBTC endorsed the resolution which allows each party to make its own decision. The PBTC recommended the PBAC discuss the issue and consider recommending a ban on trade of gall bladders from all bear species. Although people can sell legally harvested bear gall bladders in the NWT, the GNWT is reviewing the practice. Between 1992 and 1994, the GNWT issued export permits for 61 polar bear gall bladders.

There is an absence of documentation substantiating the extent of the demand for polar bear gall bladders. There is anecdotal information that suggests there is not an extensive commercial demand for polar bear gall bladders, possibly due to a fishy odor. On the other hand, in 1992 U.S. law enforcement agents in Alaska documented the first case of the sale of polar bear gall bladders (Schliebe et al. 1995).

Regardless of the existing legal trade in some Canadian provinces and territories, as well as the relative demand that may exist for polar bear gall bladders, the Service believes that the safeguards imposed in this rule at 18.30 (a)(1)(iv) and (e)(7) & (8) will ensure that the import of legally taken polar bear trophies does not contribute to illegal trade in bear parts. The required certification that the gall bladder and its contents were destroyed and the strict tagging requirements stipulated by this rule are effective

deterrents to the illegal trade in bear parts.

F. Import of Pregnant or Nursing Animals Under the MMPA

1. Finding

The Service finds that provisions of section 102(b) of the MMPA that prohibit the import of pregnant and nursing marine mammals will be met under the application requirements, issuance criteria, and permit conditions placed in the final regulations. The applicant must certify that the bear was not pregnant at the time of take and include relevant documentation with applications for a permit to import female bears or bears of unknown sex to indicate that the bear was taken legally and, for such bears taken prior to January 1, 1986, other documentation to indicate that the bear was taken at a time or place when it could not have conceivably been pregnant near term.

For a bear taken prior to the 1996/97 NWT hunting season, the applicant must provide a certification and any other documentation that may be available to demonstrate a female polar bear, a bear of unknown sex, or a male bear that is less than 6 feet in length was not taken from a family group (i.e., nursing). The regulations also provide for import permits to have a condition that the polar bear at the time of take was not pregnant near term, was not a dependent nursing bear or a female with such offspring (i.e., in a family group), and was not moving into a den or already in a den. These measures ensure that the prohibitions of Section 102(b) of the MMPA will not be violated, as discussed further below.

2. Discussion of Pregnant or Nursing

Section 102(b) of the MMPA prohibits the import of any marine mammal, except under a permit for scientific research or enhancing the survival or recovery of a species or stock, if such marine mammal was pregnant or nursing at the time of take. Since Congress did not specifically exclude the issuance of polar bear import permits from this prohibition, the Service considers the requirement to apply.

In the proposed rule (60 FR 36382), the Service requested comments on the following options to ensure that the requirements of section 102(b) of the MMPA are met prior to issuing a permit for the import of polar bear trophies taken in the NWT as follows: (1) have the GNWT certify that at the time of take the bear was not pregnant, was not a nursing cub, and was not a mother with cubs based on information presented to the DRR office; (2) condition the import permit that the permittee must certify at the time of import that at the time of take a female bear was not pregnant or a mother with cubs, and a young bear was not nursing; and/or (3) include issuance criteria that the Service would not issue permits for female bears taken during the month of October and bears taken while in family groups.

Based on the comments received, the Service adopted a modification of proposed actions (2) and (3). In the proposed rule, the Service noted two timeframes when it might be difficult to ensure the provisions of section 102(b) would be met. First, it would be difficult to know if a polar bear was pregnant in any months preceding denning. Polar bears mate in spring, become implanted in late September and usually start building dens in late October and early November. Cubs are typically born at the end of December. As was pointed out by the MMC, ''* * * determining whether a female is pregnant would be difficult early in a pregnancy and, very early, might require analysis of hormones in the blood or histological examination of the ovaries and uterus. It is unlikely that either the hunter or the guide would be qualified, or would have the equipment or material necessary to do such analyses.'' Because of this concern, the Service reviewed the legislative history of the MMPA for information on the meaning of the term ''pregnant''. In 1972, when the MMPA was enacted the House Conference Report (H.R. Rep. Conf. No. 92–1488, 92d Cong., 2d Sess. 24 (1972)) indicates that the conferees discussed the provision of prohibiting the import of pregnant marine mammals. The report states, ''It is known that some marine mammals are technically pregnant almost year-round, and in the cases of others, it is extremely difficult for even trained observers to detect pregnancy except in the latter stages or in seasons when such animals are known to give birth. It is the intent of the conferees that the term ''pregnant'' be interpreted as referring to animals pregnant near term or suspected of being pregnant near term as the case may be.''

The GNWT currently prohibits the hunting of bears constructing dens or in dens. Since the proposed rule, the Service has learned that the GNWT affords such protection to female bears, in part, by prohibiting the hunting of female bears prior to December 1 in areas where denning occurs. These measures effectively protect female bears pregnant near term.

It is unclear when the GNWT put protection measures in place for denning bears. In a December 20, 1996, memo to the Service, it was stated that, ''For more than ten years, the Northwest Territories have had regulations in place protecting polar bears at or constructing dens'' (GNWT). Therefore, for female polar bears or bears of unknown sex sport hunted in the NWT prior to January 1, 1986, the Service will require an applicant to provide documentation that the polar bear was not pregnant near term at the time of take. This documentation could be a copy of the travel itinerary or hunting license which shows the date(s) or location of the hunt, as proof that the bear was taken during the time period when the bear could not conceivably be pregnant near term or from an area that does not support maternity dens. The Service selected the date of January 1, 1986, since bears typically give birth prior to January 1, and 1986 represents the ten year period of protection referred to in the memo.

The second timeframe of concern was for nursing bears (mother and young). Bears typically nurse until they are approximately 2.0 to 2.5 years of age at which time they are about the same size as the mother. Polar bears nearing the time when they are weaned would be difficult to identify as nursing. At the time of the proposed rulemaking and as discussed previously, the NWT wildlife regulations protect cubs of the year, one-year-old cubs, and mothers of bears in these two age groups. However, in some areas, the regulations do not protect two-year-old bears or mothers of two-year-old bears. Effective with the 1996/97 NWT polar bear hunting season, all management agreements were changed to protect bears in family groups (Ron Graf, DRR, personal communication). Although sport hunters tend to target large, older male polar bears it is possible that 2-year-old bears or mothers of such bears were legally sport hunted in the NWT prior to the management agreement changes. Therefore, to ensure that the MMPA prohibition on the import of nursing marine mammals is met, the Service will require applicants who took a bear prior to the 1996/97 NWT hunting season to certify that the bear was not hunted from a family group and provide any available documentation that a female bear, a bear of unknown sex, or a male bear that is less than 6 feet in length (from tip of nose to the tail) was not taken from a family group. Such documentation may include certification from the DRR based on their harvest records that the bear was not taken as part of a family group.

G. Finding for Bears Taken Before the 1994 Amendments

1. Finding

The Service will issue permits for polar bears taken from approved populations in the NWT between December 21, 1972, and April 30, 1994, the date the MMPA was amended, when the issuance criteria of § 18.30(d) and the conditions of § 18.30(e) are met. The Service proposed that bears taken in all 12 populations in the NWT would be eligible for import permits under an aggregate finding, but now the Service finds that pre-Amendment bears must have been taken from approved populations as discussed below. The Service will accept several different forms of documentation, as described in § 18.30(a)(4) as evidence of legal take. The Service notes that documenting the polar bear was legally harvested in Canada by the applicant or by a decedent from whom the applicant inherited the trophy may be more problematic for polar bears taken between late 1972 to 1976 since records maintained by DRR start from the mid 1970's. The application information needed to determine the bear was not pregnant or nursing at the time of take is the same as for bears taken after April 30, 1994. This is to address the factors set forth in § 18.30(a)(7) and (8).

2. Discussion of Bears Taken Before the 1994 Amendments

Section 104(c)(5)(A) includes polar bears taken, but not imported, prior to the 1994 Amendments. The Service proposed (60 FR 36382) to issue an aggregate finding covering the NWT historic sport-hunting program for each year starting in late 1972 to the present for the following reasons: (1) Canada is a signatory to the 1973 International Agreement on the Conservation of Polar Bears that came into effect on May 26, 1976; (2) since 1949 Canada has restricted hunting of polar bears to Native people; (3) the GNWT has managed polar bears under a quota since 1968; (4) the GNWT has maintained a data collection and monitoring program on the polar bear harvest in its territory since the 1976/77 harvest season; (5) the DRR has demonstrated a progressive management program for polar bear that includes scientific research and traditional knowledge; and (6) the 1994 Amendments do not require the evaluation of Canada's past polar bear management history.

Based on comments received and a review of the MMPA, the Service finds pre-Amendment bears must have been taken from approved populations. The ''grandfather'' provision that allows permits to be issued for pre-Amendment trophies is tied to the same statutory criteria that apply to the import of polar bears taken after the passage of the 1994 Amendments. Section 104(c)(5) of the MMPA allows the issuance of import permits for polar bear trophies taken before April 30, 1994, *if* the Secretary makes the necessary findings that, *inter alia*, the Canadian management program is consistent with the International Agreement and that ''the affected population stock'' is managed under scientifically sound quotas ''at a sustainable level.''

For those pre-Amendment trophies which were taken from currently deferred populations, the Service will consider substantial new scientific and management data as it becomes available. If, after public comment and consultation with the MMC, the Service is able to approve the population at some future time, the regulations would be amended to add that population to the list of approved populations in § 18.30(i)(1). Then, permits could be issued for the import of pre-Amendment trophies of polar bears taken from the newly approved population.

Background

On January 3, 1995, the Service published a proposed rule in the Federal Register (60 FR 70) to establish application requirements, permit procedures, issuance criteria, permit conditions, and a special permit issuance fee. The Service published a second proposed rule (60 FR 36382) on July 17, 1995, on the legal and scientific findings that the Service must make before issuing permits for the import of polar bears trophies. A notice (60 FR 54210) to reopen the public comment period for 15 days was published on October 20, 1995. The Service received 61 comments from the public, including 7 form letters from hunters, 8 humane organizations, 11 hunting organizations, 23 individuals, 3 Native groups in Alaska, 3 businesses, and 7 governmental agencies.

Summary of Comments and Information Received; General Comments

Several respondents were concerned with the length of time it was taking to finalize the rulemaking. One thought the National Environmental Policy Act (NEPA) was inapplicable and was causing undue delay.

Response: The Service made every effort to complete this rule in a timely manner. The rulemaking process requires the Service to review and give due consideration to public comments. NEPA requires the Service to consider the environmental effects of proposed actions so the Service can make a fully informed decision and assure the public that it has considered all significant environmental concerns. Since the Service conducted the rulemaking and NEPA review at the same time and since the Service made a Finding of No Significant Impact under NEPA which precludes the need to conduct an Environmental Impact Statement, the NEPA review did not delay the Service's rulemaking.

Comments on Application Requirements and Permit Procedures

Issue 1: Several respondents encouraged the Service to make the permit process more efficient and user friendly. Some suggested the Service not require some of the proposed application information.

Response: The Service agrees the permit process should be easy to understand and is developing an application package for the import of polar bear trophies. Once available, the Service welcomes comments on clarity of information. Individuals currently on the Service's polar bear mailing list will be sent a copy of this package.

After further consideration, the Service revised the regulations on application requirements. The Service is no longer asking for the name and address of the exporter since the information will be on the CITES export permit. Nor will the applicant need to give the age of the polar bear as he or she generally will not know this information at the time of import. The Service does not agree with some of the comments and will continue to require the applicant to provide the sex of the polar bear and the size of the hide or mount. The Service believes it is important the permit describe the items being imported, to facilitate inspection and clearance of the trophy into the United States.

Issue 2: The Service received several comments on the proposed definition of ''sport-hunted trophy'' in § 18.30(b). One respondent urged the Service to stress that the permittee can use the imported trophy only for non-commercial purposes. Another suggested the Service expand the definition to include any part that would normally constitute polar bear trophy items, such as the baculum and bones.

Response: The Service agrees and revised its definition. The definition allows the trophy to be finished or unfinished, but requires the items be suitable for the creation of a mount, display, or rug. It does not include: (1)

unspecified polar bear parts and internal organs that may be of curiosity but not traditionally kept as trophy items; (2) items that are purchased in Canada; or (3) articles of clothing or ornamentation such as pants, hats, shoes, gloves or jewelry, or other finished polar bear products such as fishing lures or accessories.

Issue 3: One respondent correctly noted that the Service mistakenly proposed in § 18.30(c) that the MMC must review each polar bear trophy application. The law only requires consultation with the MMC on a series of general findings, not on each permit application.

Response: The Service agrees that Section 101(a)(1) of the Act specifically exempts review by the MMC of each application for a permit to import a sport-hunted polar bear trophy and revised the regulations to reflect this.

Issue 4: One individual requested the Service set a timeframe for the review and approval of applications.

Response: The Service believes the time already specified in the regulations at 50 CFR § 13.11 is appropriate. The permit applicant should allow at least 90 days prior to the requested effective date of a permit to be issued under the MMPA. The Service processes all applications as quickly as possible, but notes that actual processing time varies based on available resources and number of applications received in a period of time. Applicants can facilitate the process by ensuring that all information and documentation submitted in their application is complete.

Issue 5: Two respondents objected to the proposal to publish a notice of each permit in the Federal Register.

Response: Section 104(d)(2) the MMPA requires the Service to publish notice of each application in the Federal Register. When Congress added section 104(c)(5) to the MMPA to allow for issuance of permits to import polar bear trophies, it did not exempt this type of permit from the public notice and comment procedures required under section 104(d) of the MMPA.

Issue 6: One respondent recommended the Service delete the issuance criteria listed in § 18.30(d)(4), (5), and (6) on Canada's sport-hunting program, scientific quotas, and consistency with CITES since the Service was making generic findings.

Response: Although the Service recognizes that some of the criteria will be met through generic findings, it continues to believe the regulations must contain all issuance criteria. To assist the public in understanding the requirements, the application package will provide information explaining issuance criteria and findings. Applicants may cite the generic findings made in this rule on the consistency of the Canadian program with the International Agreement and the sustainable management of the particular population from which the trophy was taken. However, for polar bears taken from populations other than those approved in the final rule, the applicant should submit data on each of the criteria so that the Service can determine whether the new data are sufficient to allow the Service to make affirmative findings under Section 104(c)(5)(A) of the MMPA.

Issue 7: Two individuals indicated that the import permit needs to be valid for longer than one year since taxidermy work cannot be done in Canada in that time interval. In addition, there should be a provision to extend the permit without payment of another fee.

Response: The Service believes that a one-year duration of a permit should be adequate time to make the shipping arrangements and import a trophy since the permit is required to import the trophy, not to hunt the polar bear. The permit applicant can apply for the import permit at any time as best suits the anticipated completion date of the taxidermy work in Canada. The Service continues to believe the standard processing fee in 50 CFR § 13.11(d)(4) should apply to renewal of permits, including polar bear trophy import permits. This is a permit administration fee to help defray the processing costs, not the one-time polar bear issuance fee of $1,000.

Issue 8: Some respondents thought the proposed fee rate for the issuance of polar bear permits was reasonable while others were concerned the proposed fee was excessive. Several respondents were concerned about the Service's use of the fee and its accounting of disbursements.

Response: After consideration of the comments, the Service retained the issuance fee at $1,000, as proposed.

Congress specifically wrote the law (section 113(d)) so the Service would use the funds from the issuance fee to further the purposes of the International Agreement for the conservation of polar bear populations shared between the United States and the Russian Federation. An issuance fee of less than $1000.00 (compared to the projected number of import permits) would not produce sufficient revenue to implement the conservation provisions of Sections 104(c)(5)(B) and 113(d).

The Service, working with the State Department, the MMC, and the State of Alaska, is working with the Russian Federation to coordinate measures for the conservation, sustainable use, protection of habitat, and study of the Alaska-Chukotka shared polar bear population. The Service anticipates they will fund the following kind of activities: development of a harvest monitoring management program; collection of specimen material; conducting aerial den or population surveys; providing technical assistance for enforcement programs; and development of conservation educational materials.

The Service will use monies from issuance fees to fund research and conservation projects as outlined by the MMPA and not to process polar bear import permit applications. The Service will provide periodic progress reports to Congress on the effectiveness of the implementation of the International Agreement and of the progress made in the cooperative research and management programs with the Russian Federation under section 113(c) and (d) of the MMPA.

Issue 9: One respondent urged the Service to define ''significant adverse impact'' in its final rule under § 18.30(h) on scientific review.

Response: The Service decided not to develop a regulatory definition of ''significant adverse impact'' at this time, but did give consideration to its meaning as discussed in the section on scientific review above.

Comments on Consideration of Population Stocks Under the MMPA

Issue 1: Many respondents questioned the management of polar bears in Canada as 12 separate population stocks.

Response: After review of the comments and further consideration, the Service continues to conclude that each of the 12 polar bear management units in Canada is a separate population stock as the MMPA defines the term. The Service believes that this designation ensures the maintenance of the polar bear throughout its range in Canada. This decision was made by applying sound biological principles to the examination of polar bear biology and reviewing the data from scientific research. A complete discussion of the Service's position on this issue is provided under the heading ''Consideration of Population Stocks under the MMPA.''

Issue 2: Although the MMC agreed that in the face of uncertainty it generally is prudent to manage based on local populations or subpopulations, they pointed out that splitting a discrete population into smaller sub-units could lead to a positive finding for sub-units

that would not be reached if the population were considered as a whole.

Response: The Service agrees with the MMC, and notes Canada's polar bear management program recognizes that there may be adverse consequences if Canada defines and manages a population too broadly or too narrowly. For example, when scientific data showed that the recruitment level of the Viscount Melville population was substantially different from other populations in Canada, the GNWT changed its management of polar bears in this population. If the GNWT had lumped this population with other populations and managed them as one, the number of polar bears would have continued to decline in Viscount Melville.

Comments on Canada's and NWT Polar Bear Management Programs

Issue 1: Many respondents praised the Canadian polar bear management program as a model of good conservation and co-management and asked the Service to defer to Canada's expertise.

Response: The Service agrees that Canada has established an effective management program for polar bear, but the MMPA requires the Service to independently make the findings set out by Congress.

Issue 2: Several respondents questioned Canada's ability to monitor and enforce their polar bear sport-hunting program.

Response: After considering the comments, the Service continues to find that Canada has an effective sport-hunting program. The Service does not agree with the comment that Native land claim agreements will supersede NWT and Canadian law. The NWT regulations implement the agreements and apply to all hunters. The agreements include actions necessary to fulfill the provisions of the International Agreement. Some agreements have been in place a number of years (e.g., the Inuvialuit Land Claim Agreement has been in place since 1984) and have been shown to be effective in developing and implementing co-operative management of polar bear and other wildlife resources.

Comments on the Harvest of Polar Bears

The Service received many extensive and contradictory comments on the role of sport hunting in the harvest and management of polar bears. Respondents disagreed on the significance of cannibalism by males; whether sport hunting has an effect on the total harvest of polar bears; the significance of sexual competition; the potential consequences of targeting older, adult male bears; and the social and economic effects of sport hunting on Native peoples.

Response: The Service must consider not whether sport hunting should occur or is beneficial but whether Canada has a monitored and enforced hunting program that is consistent with the International Agreement and is based on scientifically sound quotas that will ensure the maintenance of populations at a sustainable level. Thus, the Service believes it is not necessary in this forum to respond to the detailed comments debating the role of sport hunting. The Service recognizes that, under certain conditions, sport hunting can be a useful management tool. Canada has elected to incorporate it into their total management program for polar bears. The selective harvesting of males is a part of the Canadian model of management and is based on biological and management considerations, not on the relative merits of sport hunting.

Comments on Legal and Scientific Findings

Issue 1: The MMC thought the regulations should permanently prohibit the import of polar bears taken in disapproved populations. They wrote the Service that ''at the absolute minimum, the Service should require the applicant to demonstrate that the trophy to be imported was taken from a population for which the Service has made a current affirmative finding.''

Response: The Service has carefully considered the comments received and agrees that only polar bear trophies which were taken from currently approved populations should be eligible for import at this time. The Service will consider issuing import permits for polar bear trophies taken from currently deferred populations if, after notice and opportunity for public comment and in consultation with the MMC, the Service is able to make all of the required findings for the deferred population and add that population to the list of approved populations at § 18.30(i)(l).

Issue 2: Several respondents thought the proposed system to review and update the status of populations would delay the subsequent approval of populations that the Service had disapproved. The CWS asked that the system retain flexibility so as to allow findings to be reviewed and updated regularly.

Response: The Service agrees and revised the regulations to look at the overall sport-hunting program. The Service removed the requirement that the population status as reported by the DRR had to be either ''+'' or ''o'' for the average of the past three harvest seasons. For additional discussion of the method of approving populations, see the previous section on scientifically sound quotas and maintenance of sustainable population levels.

Issue 3: One respondent was concerned that if the population status changed for any particular year (i.e., an approved population became disapproved), the Service would be required to confiscate already imported trophies.

Response: The Service would consider legally imported trophies from approved populations to be legal even if the population was subsequently disapproved based on new information.

A. Comments on Legal Take

One respondent commented that the proposed rule placed the authority to prove legal taking of a bear with the GNWT.

Response: The Service retains the responsibility to decide for each permit application whether the hunter legally harvested the polar bear in the NWT. The finding of legal take consists of two decisions by the Service: (1) the aggregate finding on Canada's program as given in this rule and (2) the finding for each permit application. The type of documentation the applicant must provide is given in the regulations at § 18.30(a)(4) and is based on provisions in Canada's management program.

B. Comments on the International Agreement

Issue 1: The MMC commented it is an open question whether the International Agreement is self-executing. International law binds the Parties to the provisions of the International Agreement, whether or not a Party has domestic legislation to fully implement the Treaty's provisions.

Response: The Service believes the International Agreement is not self-implementing, but agrees with the MMC that international law binds the Parties to its provisions. In any event, the Service believes that the GNWT program for the management of polar bears is consistent with the International Agreement.

Issue 2: The MMC asked which exemption in Article III.1—either (d) or (e)—the Service considers to authorize a sport hunt by non-nationals.

Response: Although exception (e) is the clearer authority, the Service interprets both exceptions to allow sport hunts under specified conditions discussed earlier in the section on the International Agreement. Exception (d) allows for sport hunts in Canada

because of Canada's declaration. Exception (e) allows sport hunts by any Party. So as referenced in Canada's declaration, both (d) and (e) permit a sport hunt based on scientifically sound quotas under Canada's laws.

Issue 3: Two respondents provided opposing views as to whether exceptions (d) and (e) are more appropriately interpreted by plain meaning or consideration of negotiating history.

Response: The Service agrees with the comment that negotiating history may be consulted where the provisions of a treaty are unclear, and that the plain meaning interpretation must be used where the provisions are clear.

Issue 4: The MMC thought the Service should consider whether exception (d) is limited to taking by local people as a literal reading would suggest, or whether it allows taking by non-nationals, non-Inuit, or non-Indian hunters under the guidance of a Native hunter, as the negotiating history may support. One respondent argued that under the plain meaning of the phrases of the exception hunting is limited to only local people in contiguous land areas.

Response: The Service does not believe the scope of this exception is limited to actual taking by local people in Canada based on Canada's declaration to the International Agreement. Since persons may disagree on the interpretation of the generalized words in the exception, the Service believes it is necessary to look to the negotiating history as discussed previously.

Issue 5: The MMC and two respondents gave widely divergent interpretations of exception (e). One respondent suggested the exception imposes a geographic restriction rather than a restriction on the class of persons. Another thought the interpretation given by the Service and the Baur Report was overly broad and overlooked the consequences.

Response: The Service agrees with the MMC that the best interpretation of exception (e) is that a Party nation may authorize taking by any person, including a non-national, as long as the take occurs in an area where nationals have hunted by traditional means. A discussion of traditional hunting areas can be found in the section on the International Agreement. Since the language of this exception is open to different interpretations as shown by the range of comments received, the Service examined the negotiating history of exception (e) as discussed earlier.

Issue 6: One respondent suggested that Canada's polar bear sport-hunting program is in violation of the International Agreement because Canada filed its declaration after the Treaty was signed and the declaration contravenes the language of the Treaty.

Response: The Canadian government submitted its declaration when it deposited its instrument of ratification for the Agreement in 1976 (Baur 1993). The declaration provides Canada's interpretation of the phrases ''traditional rights'' and ''in accordance with the laws of that Party'' from the International Agreement. Moreover the Service is not in a position to criticize Canada's interpretation of the International Agreement or Canada's domestic implementation of the treaty. It is the Service's judgment that Canada has the best polar bear management programs in the world. The Service finds that the GNWT management program for polar bears as well as the Canadian interpretations of the International Agreement are consistent with the purposes of the International Agreement.

Issue 7: Many respondents disagreed with the Service's interpretation of ''token'', arguing that Canada had not defined the term and Canada should determine the meaning. On the other hand, the MMC thought the Service should define the term more conservatively.

Response: After considering comments and consulting further with the CWS, the Service decided not to independently define the phrase ''token sports hunt'' in terms of percentage of the quota, but to accept Canada's interpretation that token refers to sport hunts that are within conservation limits.

Issue 8: The Service received two opposing comments on the Resolution on Special Protection Measures to the International Agreement that calls for the protection of females with cubs and their cubs.

Response: The Service believes the Resolution is complementary to the objectives of the International Agreement, and failure to comply with the Resolution results in failure to meet those objectives. Therefore, the Service will continue to consider whether populations have provisions to protect females with cubs and their cubs prior to deciding whether to approve polar bear populations for the import of trophies into the United States.

Issue 9: Several respondents thought that hunts would be in violation of the International Agreement if (1) hunters used aircraft, snow machines, or boats to reach base camps in areas beyond where nationals traditionally hunted or to areas that could not be reached by Native hunters on dog sleds or (2) hunters used aircraft to assist in locating or taking bears, or selecting base camps within areas of high polar bear densities.

Response: After further consideration, the Service continues to find that Canada's polar bear management program, including the use of aircraft, snow machines or boats to reach base camps, meets the provisions of the International Agreement. A discussion that addresses the concerns raised by these comments is given in the section on the International Agreement above.

Issue 10: The MMC pointed out that section 102(a)(1) of the MMPA prohibits any person subject to U.S. jurisdiction from taking any marine mammal on the high seas, and advised that if sport hunts are being conducted beyond Canada's 12-mile limit, which the MMC is interpreting as the high seas, the Service will need to determine whether such taking is consistent with the MMPA.

Response: The MMPA does not define the term ''high seas.'' Canada signed the UN Convention of the Law of the Sea in 1982 and considers waters under Canadian jurisdiction to include waters up to the limit of the 200 nautical mile exclusive economic zone (GNWT). This interpretation is comparable to the definition of ''waters under the jurisdiction of the United States'' as defined in the MMPA.

The MMPA provides for exception to the taking prohibitions of section 102 by permit issued under section 104. Section 104(c)(5)(A) allows the Director to issue permits for the import of polar bear trophies legally taken in Canada. The Service has, therefore, determined that the taking of polar bear trophies by U.S. hunters is consistent with the MMPA so long as the trophy is hunted legally in Canada, which includes the waters under the jurisdiction of Canada as long as the provisions of the International Agreement are met.

C. Comments on Scientifically Sound Quotas and Maintenance of Sustainable Population Levels

Issue 1: Several respondents questioned the quality of the data used by the Service to make its findings, suggesting the information was insufficient or uncertain for key elements of the management program such as definition of population boundaries.

Response: The Service based its findings on the best available information. The Service does not consider the re-examination of population boundaries, for example, by the DRR as being indicative of a scarcity

of data. On the contrary such re-examinations demonstrate an interest in obtaining the best information possible given current management practices and technology.

Issue 2: Several respondents thought the GNWT relied too much on population inventories. The length of time between inventories was long and the lack of adequate funds might limit the periodic inventories being conducted.

Response: The Service notes that the 20-year timeframe between inventories is practical considering other data Canada collects and uses to monitor polar bear populations and polar bear life history that is characterized by a long life span, slow population growth, large distribution, and low density.

Issue 3: Several respondents expressed concern by the lack of standard error measures for population estimates.

Response: The Service considers the use of the population estimates within the present context to be valid. The population estimates were determined through research using scientific methodology and are a conservative approach. Although the Service acknowledges that the use of a quantitative term, such as the standard error, to report the reliability of the population estimate is more acceptable scientifically, the use of qualitative terms is appropriate at this time due to sampling bias.

Issue 4: The Service received a number of comments on the use of local knowledge collected from hunters in the NWT polar bear management program.

Response: The use of local knowledge by the GNWT demonstrates one aspect of co-management of the polar bear resource and reflects the efforts of the GNWT to collect as much information as possible to identify research and management needs. Local knowledge is one kind of information considered in conjunction with monitoring of the polar bear populations. This is similar to other wildlife management programs that use hunter information, such as the white-tail deer programs in the United States. The Service notes that the analyses used to examine the harvest data as well as their interpretation and the conclusions of the investigators have been discussed in a recent publication by Lee and Taylor (1994).

Issue 5: Several respondents commented that allowing the import of polar bear trophies into the United States might result in pressure on the GNWT to increase the harvest quotas.

Response: The drafters of the 1994 Amendments to the MMPA recognized this possibility and placed provisions in the MMPA to address it, i.e., specific scientific review and findings to ensure the issuance of permits is not having a significant adverse impact on the polar bear populations in Canada. In addition, the NWT polar bear program is subject to review by the IUCN PBSG as well as other national and international representatives at annual PBTC and PBAC meetings.

Issue 6: Several respondents were critical of the model used by Canadian wildlife managers for a variety of reasons. One of the biggest concerns was there would be a delay of many years before managers would know if the predictions of the model were correct.

Response: Given the varied aspects of the NWT polar bear management program and the constraints of the polar bear life history, the Service believes the model used to calculate sustainable harvest is appropriate. Some time may be required before certain variables within the existing model can be precisely quantified, but this is typical of models for species, such as the polar bear, characterized by low reproductive potential, long life spans, low density, and large distribution. Given this life history, there is no model available which could provide a prediction of trends within a short timeframe. This includes the model currently mandated by the MMPA for U.S. marine mammal stocks which includes the determination of maximum net productivity.

Issue 7: The MMC commented that the use of this model would result in very conservative management for populations near carrying capacity, but that populations below their maximum net productivity level will remain depleted. The choice of this model indicates the GNWT intends to maximize yield and to sustain existing populations rather than bring those populations to optimum sustainable levels.

Response: The 1994 Amendments do not require the Service to apply the terms ''depleted,'' ''maximum net productivity,'' and ''optimum sustainable levels'' in relation to the NWT polar bear program. The Service must make a finding that Canada has a sport-hunting program based on scientifically sound quotas ensuring the maintenance of the affected population at a sustainable level, not at an optimum sustainable level.

Issue 8: Some respondents believed that the GNWT should not manage polar bears under the assumption of maximal recruitment and survival rates (e.g., no density effects).

Response: The Service does not agree with these comments. As discussed previously, information is lacking on density-dependent population regulation in bears, including polar bears. Until such time as there is accurate data on how density affects bears, the Service believes the GNWT has taken a reasonable approach by assuming that there is no density effect and basing its management program on measurable numbers.

Issue 9: The MMC asked why the Service used the midpoint or best population estimates, rather than minimum population estimates, which are used in calculating potential biological removal levels under the MMPA.

Response: The Service used the phrase ''best estimates for vital rates'' in the proposed rule, not ''best population estimates.'' The Service believes the population estimates used are appropriate. It was agreed at the workshop for the development of the DRR polar bear model (DeMaster 1988) that minimum estimates of population size should be used when reliable estimates of population size are not available. This results in a conservative quota.

Issue 10: Several respondents considered the emphasis on harvest at a 2:1 sex ratio as inappropriate given the lack of information on number of males needed to make up a healthy population and male reproductive success, and the possible reduction of genetic vigor in the population.

Response: The Service acknowledges that genetic viability, mate selection, and genetic vigor are not well documented for polar bear but believes that Canada is using the best available information in deciding on tools to manage this species. It is known that male polar bears are opportunistic breeders and do not contribute to the care of young. The loss of a male bear generally will have less of an impact on population recruitment than the loss of a female. So the sex-selective harvest is a valid wildlife management tool that is based on science and is utilized to conserve the population by reducing the impact of the harvest on females.

Issue 11: Other respondents thought the GNWT could not keep the harvest of females within the specified ratio because the DRR does not appear to have effective law enforcement against the taking of female bears.

Response: The DRR has regulations and enforces such regulations for the harvest of females in excess of the quota. Because there have been problems with implementation of the harvest sex ratio, the GNWT developed the Flexible Quota Option that provides a more consistent means of reducing the

community quota when there has been an overharvest of either male or female polar bears.

Issue 12: The MMC pointed out that if the proportion of females in the harvest drops to 1.5 percent, the allowable harvest would be the entire population.

Response: The Service agrees that the theoretically absurd outcome hypothesized by the MMC could occur if the GNWT blindly followed its formula without regard to the dramatic change in the composition of the harvest. It is highly unlikely that such would occur. To further ensure that such an event does not occur, the GNWT encourages polar bear harvesting at a 2:1 ratio. The use of the Flexible Quota Option will help to ensure this level of harvest is not exceeded.

Issue 13: The Service received a number of comments on the method used by the Service to approve populations. Some respondents thought it was inappropriate to use the population status or exceeding the quota as determinative factors, but rather the Service should look at the success of the overall management program.

Response: The Service agrees that neither factor alone fully reflects how a particular population meets the required finding. The Service proposed to use the population status as a non-discriminatory means of approving populations, but now believes the population status is better used as an indicator of how well the allocated quota is being adhered to.

The Service must make a finding that there is a sport-hunting program based on scientifically sound quotas to ensure the sustainability of the affected population. To clarify, the Service views scientifically sound quotas as ones that are based on scientific methodology that have undergone some scientific (i.e., peer) review and/or are generally accepted by the scientific community at large. It is the sport-hunting program, not the quota, that must include mechanisms that will ensure the maintenance of the affected population at a sustainable level. The quota is one factor that affects the growth or decline of the population. See the previous section on the legal and scientific findings for further discussion.

Issue 14: One respondent thought the Service should approve populations where authorities are working to establish a management agreement rather than requiring such an agreement be in place.

Response: The Service believes that the management agreements are an essential part of co-management of polar bear populations between the resource users and government wildlife managers. So the Service continues to require management agreements be in place before approving a population.

Issue 15: One respondent noted that the Service had approved the Southern Beaufort Sea and Western Hudson Bay populations with a condition that the management agreements between communities remain in place. The respondent questioned why the Service had not placed a similar condition on other approved populations.

Response: The Service reviewed the management agreements for all populations in making its proposed findings, but only conditioned the approval for these two particular areas that involve interjurisdictional management agreements. Given the critical role that management agreements play in the NWT polar bear management program, the Service agrees that the approval of all populations should be conditioned and revised the regulations to reflect this.

Issue 16: In the proposed rule, the Service stated that the Quebec Inuit had declined to participate in co-management agreements with the GNWT. The CWS clarified that although there is no specific agreement between Quebec and the NWT, both Quebec and the Quebec Inuit have been active participants in the cooperative management of shared populations, and that all parties are committed to cooperating to ensure the conservation of polar bears.

Response: The Service regrets the error regarding participation of the Quebec Inuit and removed the statement from the preamble of this rule.

Issue 17: The Hunting, Fishing and Trapping Coordinating Committee established under the James Bay and Northern Quebec Agreement and the Act Respecting Hunting and Fishing Rights in the James Bay and New Quebec Territories asked the Service to allow the import of polar bear hides resulting from subsistence harvest in Quebec.

Response: The 1994 Amendment to the MMPA only allows the issuance of a permit to import a polar bear trophy that was sport hunted by the permittee. Any other exemption to the prohibitions of the MMPA, including the import of purchased hides or handicrafts for personal use, would require administrative action under other provisions of the MMPA.

Issue 18 Southern Beaufort Sea: One respondent thought the Service should not approve the Southern Beaufort Sea area based on the lack of: management provisions, including a treaty or agreement between the United States and Canada to manage this population; limits on Native take of marine mammals; and enforceable measures on the take of pregnant polar bears and cubs.

Response: The Service accepts the agreement between the resource user groups in Canada and Alaska as being in the same context as management agreements for populations contained within the NWT. The agreement establishes the sustainable harvest level and allocation of the quota, provides for protection of cubs and their mothers and denning females, and restricts hunting seasons. The NWT management program incorporates measures to resolve problems and to investigate or correct a suspected decline in this shared population.

Issue 19 Northern Beaufort Sea: One respondent disagreed with the Service's approval of the Northern Beaufort Sea population due to the failure of hunters to adhere to a 2:1 harvest ratio of males to females.

Response: The Service provides the following clarification. Although the harvest in the Northern Beaufort Sea has not been at 2:1, the harvest of females did not exceed the 2:1 quota. For example, the sustainable harvest in the 1993/1994 season was 36. If the harvest was conducted at a 2:1 ratio, then 12 females could have been harvested. The total kill was 16, with 50 percent of these being female. So eight female polar bears were killed in the 1993/1994 season, and the quota of 12 females was not exceeded.

Issue 20 Viscount Melville: Several respondents disagreed with the Service's approval of the Viscount Melville population since there is a moratorium on hunting. One felt that it was not clear whether the DRR had enforcement authority over this moratorium.

Response: The Service considers this area closed to U.S. sport hunters, but approved the population since the GNWT based the quotas on recent scientific information and a management program is in place. Although the residents in the geographic area inhabited by this population voluntarily agreed to reduce hunting pressure, the GNWT has enforcement authority under the management agreement.

Issue 21 Gulf of Boothia: Some respondents thought the Service should not approve the Gulf of Boothia population and noted that the Service had acknowledged that the data for this population is limited and rated as poor and that the population status is listed as decreasing over the 5-year average.

Response: The Service agrees. After evaluating the overall sport-hunting program in this area, the Service revised the regulations to defer approval of this population. The GNWT considers the population estimate information, which plays a substantial part in the calculation of the quota, as poor with no measurable level of precision. The Service found that the quota for this population does not fully meet the criteria of being scientifically sound. In addition the Service is concerned that the harvest of females has exceeded the quota.

Issue 22 M'Clintock Channel: One respondent similarly disagreed with the Service's approval of the M'Clintock Channel population, arguing that Canada has not conducted reliable surveys in this area for over 20 years.

Response: Contrary to the Gulf of Boothia population where there was an increase in the population estimate based in part on anecdotal evidence, the GNWT decreased the population estimate for the M'Clintock Channel population based on anecdotal evidence and concerns regarding the previous estimate obtained many years before. The Service continues to approve this population given this more conservative approach. The DRR recognized the problem of the poor population estimate and Canada has scheduled research to occur within the next 5 years. A management agreement is in place between the communities that share the quota and hunting was at a 2:1 male to female ratio in the 1993–1994 season.

Issue 23 Western Hudson Bay: Some respondents thought the Service should disapprove the Western Hudson Bay population because bears from this population intermix with bears from the Foxe Basin and Southern Hudson Bay populations that the Service had not proposed for approval.

Response: Canada based the boundaries of the Western Hudson Bay population on movements of marked bears. In the open water months the water acts as a natural geographical barrier between the populations. In ice-covered months when this natural barrier is no longer present some limited movements of bears between populations have been found. Given the high number of marked bears in the Western Hudson Bay population and the recent and intensive study of the Foxe Basin population, biologists would most likely have discovered substantial mixing of bears between the populations if it were occurring.

Issue 24 Parry Channel and Baffin Bay: Numerous respondents thought the Service should approve the Parry Channel/Baffin Bay population(s), noting most sport hunting occurs in these areas. Many said that the GNWT has significant new data on the Parry Channel/Baffin Bay population(s), including information on population boundaries and sustainable harvest level. They urged the Service to evaluate fully the data from Canada before making any final decision on disapproval of the populations.

Response: The Service is aware that study of the Parry Channel and Baffin Bay area is in progress. When available, the Service will consider in a subsequent review any new data for these populations, as described previously for all populations that the Service has deferred findings.

The Service notes that data on the 1993/1994 hunting season as well as the 3-year and 5-year averages (Table 3) indicate the total harvest in these areas has consistently been more than 70 percent greater than the calculated sustainable harvest. Compliance with quotas is one factor the Service considers in its review.

Issue 25 Davis Strait: One respondent advised that every indication suggested a substantially growing population of polar bears in Davis Strait and the Service should approve this population.

Response: The Service agrees there is observational information to suggest this population has increased since the 1979 field work. The Service, however, was unable to find based on the scientific and management data currently available that the quota is scientifically sound, and that communities in the NWT and Greenland, Labrador, or Quebec have management agreements in place. The Service has deferred making a decision on approving the Davis Strait population at this time.

D. Comments on CITES

A couple of respondents noted that provincial wildlife offices issue CITES permits, not the CWS as indicated in the proposed rule.

Response: To clarify, the Service notes the CWS is the CITES Management Authority for Canada, but provincial and territorial offices issue CITES permits for the export of polar bear trophies.

E. Comments on Illegal Trade in Bear Parts

Issue 1: Several respondents commented that the provisions of the proposal would not prevent bear gall bladders from entering into illegal trade.

Response: The Service agrees and revised the regulations so the applicant certifies that the gall bladder and its contents have been destroyed at the time of application, rather than at the time of import. This allows the Service to review documentation prior to the issuance of the import permits. Since Canadian law does not require physical surrender of the gall bladder to the community DRR officials, the Service was unable to adopt that suggestion.

Issue 2: The Service received opposing comments on the requirement that the permittee must import the polar bear trophy only at a designated port for wildlife.

Response: In considering the comments, the Service agrees that the import of a full mount trophy could cause a financial burden to the owner. The Service revised the regulations to allow applicants with this type of trophy to request an exception to designated port authorization at the time the applicant submits an MMPA import permit application to the Service. Such request will need to meet the requirements of 50 CFR Part 14. The permittee will need to make special arrangements for a Service Office to tag the trophy at the time of entry. All other trophies must be imported through a designated port for wildlife.

Issue 3: One respondent thought hunters should be allowed to ship trophies through the international mail.

Response: To prevent misdirection of trophies and difficulties in clearing parcels, the Service revised the regulations specifically not to allow the shipment of polar bear trophies through the international mail. The Service encourages the permittee to work directly with Service personnel at a designated port when making arrangements to import a trophy. The Service recommends that the permittee use airline cargo or common carriers to facilitate the inspection, clearance, and tagging of a trophy.

Issue 4: One respondent requested the Service not allow sport hunters to present CITES permits retrospectively for clearance.

Response: The Service will not accept retrospective CITES permits for the import of polar bear trophies since a condition of the MMPA import permit is that the trophies must be accompanied by a valid CITES document.

Issue 5: Some respondents stated that import requirements would not prevent illegal activities while others thought the requirements were burdensome, especially notification of the Service prior to import.

Response: The Service believes that the general inspection and clearance procedures of 50 CFR Part 14 (i.e., prior notice of arrival, filing of a wildlife declaration form, etc.) and the specific requirements for polar bear trophy

imports (i.e., use of a designated port for wildlife, tagging of the hide, etc.) will be effective in ensuring only legally taken polar bears enter the United States. The Service works with Canadian enforcement and U.S. Customs to ensure effective inspection of shipments and notes that Service wildlife inspectors must inspect and cancel Canadian export permits at the time of import as required by CITES.

Prior notification of the import of a polar bear trophy is necessary to coordinate inspection and tagging by Service wildlife inspectors. The Service did, however, reduce the proposed notification to 48 hours in this rule to agree with the current timeframe in 50 CFR Part 14.

To assist the importer, the Service will provide information to the permittee when the permit is issued that outlines import procedures. In addition, the Service will condition each import permit with specific polar bear import requirements.

Issue 6: Two respondents urged the Service to eliminate some of the paperwork required at the time of import, especially duplicate certifications.

Response: The Service agrees and revised the regulations to require certifications at the time of application for a permit. The Service also changed the regulations to require the applicant to present documents to show legal take, such as a copy of the NWT hunting license and tag number, at the time of application for a permit, rather than at the time of import.

Issue 7: One individual requested that the Service refrain from issuing permits until a tagging program is in place and fully functional.

Response: The Service remains interested in pursuing a joint tagging program with Canada. However, given the time necessary to develop and implement such a program, the Service has developed an independent program for tagging and marking polar bear trophies upon import as described in § 18.30(e).

Issue 8: One respondent questioned whether trophy parts other than the hide or rug need to be tagged.

Response: Only the hide (i.e., raw or finished as a rug or mount) must be tagged. But the Service revised the regulations at § 18.30(e)(7) to clarify that parts of the trophy other than the hide, such as the skull or bones, must be permanently marked with the hide tag number upon import to show they are part of the same trophy.

Issue 9: One individual asked the Service to eliminate the proposed requirement to tag a full mount with a leg bracelet.

Response: The Service agrees. Full mounts will now have the same tagging requirement as rugs or hides. The Service must affix a permanent plastic tag in a plainly visible yet unobtrusive location.

Issue 10: The Service received a range of comments on the replacement of lost or broken tags: the Service should require proof that the trophy had been tagged and legally imported, not just a written statement when a tag is lost; the hunter may not know when the tag was lost; the Service should consider the time and expense necessary to move and retag a full mounted bear; and the permittee should be required to pay a tag replacement fee.

Response: The Service revised the regulations to clarify information needed to show the trophy had been tagged and legally imported. The permittee needs to keep copies of the cleared import permit and canceled Canadian CITES export permit to document legal import. The Service anticipates few permittees will need to have tags replaced and intends permittees to work with Service regional staff to make reasonable arrangements for replacement tags. The Service regards the tagging of sport-hunted polar bear trophies as essential for the proper administration of the program and is not planning to charge a fee to replace lost or broken tags.

F. Comments on Importation of Pregnant or Nursing Animals Under the MMPA

The Service received numerous comments on the three proposed options for ensuring that bears to be imported were neither pregnant nor nursing when sport hunted. Respondents thought it would be difficult to ascertain whether a polar bear is pregnant prior to moving into a den; to determine whether a bear is pregnant if in the early stages of pregnancy; for a hunter, guide, Wildlife Inspector, or a DRR Officer to make the required certification; and to determine whether a young bear was nursing or a female was lactating.

The MMC proposed a fourth option not to issue import permits for polar bears taken from populations with hunting seasons that begin before December 1st. Another respondent suggested limiting permits to the import of adult male bears.

Response: Current NWT regulations protect female polar bears from being hunted in denning areas, when in dens or moving into dens, or in family groups. The Service learned that the GNWT affords such protection, in part, by opening polar bear hunting seasons in December when females would already be in dens, or prohibiting the hunting of female polar bears until December in areas where the polar bear hunting season begins in October. The Service added provisions to the regulations to ensure that bears pregnant near term or nursing (either mother or young) are not imported. See the previous section on the finding on pregnant and nursing polar bears for further discussion.

G. Comments on Bears Taken Before the 1994 Amendments

Issue 1: The MMC questioned why the Service proposed to establish the cutoff for this provision as the effective date of the final rule, rather than the date the 1994 Amendments were enacted.

Response: The Service proposed to establish this date in view of the elapsed time between enactment of the amendments and final regulations in order to more fully inform the public of the proposed regulations. However, in considering the MMC's comment in view of the plain language of the Amendments, the Service decided to set the grandfather date as the date provided by the law, April 30, 1994.

Issue 2: Several respondents thought the Service was required to make the findings on the sport-hunting program that was in place at the time the bear was taken. The MMC suggested that if quotas have been adjusted downward in response to overharvesting, such adjustments underscore the need to review the quotas that were in place at the time of taking.

Response: The Service does not agree that the Service must base the findings on the program in place at the time the bear was sport hunted. The MMPA specifically uses the present tense in the findings—''Canada has a monitored and enforced sport-hunting program consistent with the purposes of the Agreement on the Conservation of Polar Bears.'' There is no other reference in the MMPA amendment that requires or infers that the Service must base the findings for trophies taken in the past on the program at the time of taking. Furthermore, since Congress enacted the MMPA prior to development and implementation of the International Agreement, it is possible that some bears were sport hunted but not imported in the time span between enactment of the MMPA and the International Agreement.

Issue 3: Several respondents did not agree with the Service's interpretation that bears taken, but not imported, prior to final regulations were exempt from

the required findings of section 104(c)(5)(A) of the MMPA.

Response: After careful consideration of the comments submitted concerning the grandfathering of polar bears, the Service agrees that the required findings of section 104(c)(5)(A) of the MMPA are applicable to all polar bear sport-hunted trophies taken in the NWT since implementation of the MMPA in 1972. Therefore, the grandfather provision of this final rule will apply only to those populations which have been approved. Polar bear trophies sport-hunted from currently deferred populations could be imported once the Service was able to make all of the findings and the population was approved.

Issue 4: One individual commented that grandfathering of previously taken bears rewarded people who took bears counter to the purposes of the MMPA before the law allowed their import.

Response: Congress crafted the special import provision in § 104(c)(5) to avoid the more thorough waiver proceeding required by §§ 101(a)(3) and 103. By this rule, we implement the special import procedure to effectuate the intent of Congress. The Service lacks discretion to modify this procedure by adding additional requirements.

Issue 5: The MMC recommended that the Service assume that a pre-Amendment bear may have been pregnant or nursing unless the applicant provides sufficient evidence that the bear was a male or the bear was taken at a time of year when all polar bears normally would be in dens.

Response: The Service reviewed the information currently available and revised the application requirements and issuance criteria in the final regulations to avoid the possibility that pregnant or nursing bears might be imported. See the discussion in the previous section on the import of pregnant and nursing bears.

Required Determinations

The Service prepared an Environmental Assessment (EA) in accordance with the National Environmental Policy Act (NEPA), for this final rule and concluded in a Finding of No Significant Impact (FONSI) based on a review and evaluation of the information contained within the EA that there would be no significant impact on the human environment as a result of this regulatory action and that the preparation of an environmental impact statement on this action is not required by Section 102(2) of NEPA or its implementing regulations. The issuance of individual marine mammal permits is categorically excluded under 516 DM 6, Appendix 1. The EA and FONSI for this rule are on file at the Service's Office of Management Authority in Arlington, Virginia, and a copy may be obtained by contacting the individual identified under the section entitled, **FOR FURTHER INFORMATION**.

This final rule was not subject to review by the Office of Management and Budget (OMB) under Executive Order 12866. A review under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) revealed that this rulemaking would not have a significant economic effect on a substantial number of small entities which includes certain businesses, organizations, or governmental jurisdictions, because no burden will be added to the already generally mandated permit requirements imposed under the Marine Mammal Protection Act, 16 U.S.C. 1374. No change in the demography of populations is expected. The final rule will affect only those in the United States who have hunted, or intend to hunt, polar bear in Canada. This action is not expected to have significant taking implications, per Executive Order 12630.

The Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) has approved the collection of information contained in this final rule and assigned clearance number 1018–0022 which expires on January 31, 1997. The Service submitted the necessary documentation to OMB requesting three year approval for the collection of information for all areas covered by this rule. The collection of information will not be required until it has been approved by OMB. The Service will collect information through the use of the Service's form 3–200, which will be modified pursuant to 50 CFR 18.30, to address the specific requirements of this final rule. The Service is collecting the information to evaluate permit applications. The likely respondents to this collection will be sport hunters who wish to import sport-hunted trophies of polar bears legally taken while hunting in Canada. The Service will use the information to review permit applications and make decisions, according to criteria established in various Federal wildlife conservation statutes and regulations, on the issuance or denial of permits. The applicant must respond to obtain or retain a permit. A single response is required to obtain a benefit. The Service estimates the public reporting burden for this collection of information to vary from 15 minutes to 4 hours per response, with an average of 1.028 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. The estimated number of likely respondents is less than seventy (70), yielding a total annual reporting burden of seventy-two (72) hours or less. The Service determined and certifies pursuant to the Unfunded Mandates Reform Act, 2 U.S.C. 1502 *et seq.*, that this rulemaking will not impose a cost of $100 million or more in any given year upon local or state governments or private entities. The Service determined that these regulations meet the applicable standards provided in Sections 3(a) and 3(b)(2) of Executive Order 12988.

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Authorship

The originators of this final rule are Lynn Noonan, Paul McGowan, and Maggie Tieger of the Office of Management Authority, Branch of Permits, U.S. Fish and Wildlife Service, Washington, DC.

List of Subjects in 50 CFR Part 18

Administrative practice and procedure, Alaska, Imports, Indians, Marine mammals, Oil and gas exploration, Reporting and recordkeeping requirements, Transportation.

Regulation Promulgation

Accordingly, Part 18 of Chapter I of Title 50 of the Code of Federal Regulations is hereby amended as follows:

PART 18—MARINE MAMMALS

1. The authority citation for part 18 continues to read as follows:

Authority: 16 U.S.C. 1361 *et seq.*

2. Section 18.4 is added to subpart A of part 18 to read as follows:

§ 18.4 Information collection requirements.

(a) The Office of Management and Budget under 44 U.S.C. 3501 *et seq.* has approved the information collection requirements contained in Subpart D and assigned clearance number 1018–0022. The Service is collecting this information to review and evaluate permit applications and make decisions according to criteria established in various Federal wildlife conservation statutes and regulations, on the issuance or denial of permits. The applicant must respond to obtain or retain a permit.

(b) The Service estimated the public reporting burden for this collection of information to vary from 15 minutes to 4 hours per response, with an average of 1.028 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden or any other aspect of this collection of information, including suggestions for reducing the burden, to the Service Information Collection Clearance Office, Fish and Wildlife, Service Office of Management and Budget, Mail Stop 224, Arlington Square, U.S. Department of the Interior, 1849 C Street, N.W., Washington, DC 20240 and the Office of Management and Budget, Paperwork Reduction Project (1018–0022), Washington, DC 20503.

3. Section 18.30 is added to subpart D of part 18 to read as follows:

§ 18.30 Polar bear sport-hunted trophy import permits.

(a) *Application procedure.* You, as the hunter or heir of the hunter's estate, must submit an application for a permit to import a trophy of a polar bear taken in Canada to the U.S. Fish and Wildlife Service, Office of Management Authority, 4401 N. Fairfax Drive, Arlington, Virginia 22203. You must use an official application (Form 3–200) provided by the Service and must include as an attachment all of the following additional information:

(1) Certification that:

(i) You or the deceased hunter took the polar bear as a personal sport-hunted trophy;

(ii) You will use the trophy only for personal display purposes;

(iii) The polar bear was not a pregnant female, a female with dependent nursing cub(s) or a nursing cub (such as in a family group), or a bear in a den or constructing a den when you took it; and

(iv) For a polar bear taken after April 30, 1994, you made sure the gall bladder and its contents were destroyed;

(2) Name and address of the person in the United States receiving the polar bear trophy if other than yourself;

(3) For a polar bear received as an inheritance, documentation to show that you are the legal heir of the decedent who took the trophy;

(4) Proof that you or the decedent legally harvested the polar bear in Canada as shown by one of the following:

(i) A copy of the Northwest Territories (NWT) hunting license and tag number;

(ii) A copy of the Canadian CITES export permit that identifies the polar bear by hunting license and tag number;

(iii) A copy of the NWT export permit; or

(iv) A certification from the Department of Renewable Resources, Northwest Territories, that you or the decedent legally harvested the polar bear, giving the tag number, location (settlement and population), and season you or the decedent took the bear;

(5) An itemized description of the polar bear parts you wish to import, including size and the sex of the polar bear;

(6) The month and year the polar bear was sport hunted;

(7) The location (nearest settlement or community) where the bear was sporthunted;

(8) For a female bear or a bear of unknown sex that was taken before January 1, 1986, documentary evidence that the bear was not pregnant at the time of take, including, but not limited to, documentation, such as a hunting license or travel itinerary, that shows the bear was not taken in October, November, or December or that shows that the location of the hunt did not include an area that supported maternity dens; and

(9) For a female bear, bear of unknown sex, or male bear that is less than 6 feet in length (from tip of nose to the base of the tail) that was taken prior to the 1996/97 NWT polar bear harvest season, available documentation to show that the bear was not nursing, including, but not limited to, documentation, such as a certification from the NWT, that the bear was not taken while part of a family group.

(b) *Definitions.* In addition to the definitions in this paragraph, the definitions in 50 CFR 10.12, 18.3, and 23.3 apply to this section.

(1) *Sport-hunted trophy* means a mount, rug or other display item composed of the hide, hair, skull, teeth, baculum, bones, and claws of the specimen which was taken by the applicant or decedent during a sport hunt for personal, noncommercial use and does not include any internal organ of the animal, including the gall bladder. Articles made from the specimen, such as finished or unfinished, worked, manufactured, or handicraft items for use as clothing, curio, ornamentation, jewelry, or as a utilitarian item are not considered trophy items.

(2) *Management agreement* means a written agreement between parties that share management responsibilities for a polar bear population which describes what portion of the harvestable quota will be allocated to each party and other measures which may be taken for the conservation of the population, such as harvest seasons, sex ratio of the harvest, and protection of females and cubs.

(c) *Procedures for issuance of permits and modification, suspension or revocation of permits.* We, the Service, shall suspend, modify or revoke permits issued under this section:

(1) In accordance with regulations contained in § 18.33; and

(2) If, in consultation with the appropriate authority in Canada, we determine that the sustainability of Canada's polar bear populations is being adversely affected or that sport hunting may be having a detrimental effect on maintaining polar bear populations throughout their range.

(d) *Issuance criteria.* In deciding whether to issue an import permit for a sport-hunted trophy, we must determine in addition to the general criteria in part 13 of this subchapter whether:

(1) You previously imported the specimen into the United States without a permit;

(2) The specimen meets the definition of a sport-hunted trophy in paragraph (b) of this section;

(3) You legally harvested the polar bear in Canada;

(4) Canada has a monitored and enforced sport-hunting program consistent with the purposes of the 1973 International Agreement on the Conservation of Polar Bears;

(5) Canada has a sport-hunting program, based on scientifically sound quotas, ensuring the maintenance of the affected population at a sustainable level; and

(6) The export and subsequent import:

(i) Are consistent with the provisions of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) and other international agreements and conventions; and

(ii) Are not likely to contribute to illegal trade in bear parts, including for bears taken after April 30, 1994, that the gall bladder and its contents were destroyed.

(e) *Additional permit conditions.* Your permit to import a sport-hunted trophy of a polar bear taken in Canada is subject to the permit conditions outlined in § 18.31(d) and the following additional permit conditions:

(1) You, the permittee, may not import internal organs of the polar bear, including the gall bladder;

(2) After import you may not alter or use the trophy in a manner inconsistent with the definition of a sport-hunted polar bear trophy as given in § 18.30(b);

(3) You may not import a sport-hunted trophy if the polar bear at the time you or the decedent took it was:

(i) A nursing bear or a female with nursing young (i.e., part of a family group);

(ii) A pregnant female; or

(iii) A bear moving into a den or in a den;

(4) You must present to Service personnel at the time of import a valid CITES document from the country of export or re-export;

(5) You must comply with the following import procedures:

(i) Import the sport-hunted trophy through a designated port for wildlife imports (see § 14.12 of this subchapter) during regular business hours, except for full mount trophies that have been granted an exception to designated port permit requirements under § 14.32 of this subchapter;

(ii) Not send the trophy through the international mail; and

(iii) Notify Service personnel at the port at least 48 hours before the import (see § 14.54 of this subchapter) and make arrangements for Service personnel to affix a tag in accordance with paragraph (e)(7) of this section prior to being cleared (see § 14.52 of this subchapter);

(6) You must import all parts of a single trophy at the same time;

(7) The following tagging/marking procedures apply:

(i) Service personnel must affix a permanently locking tag that contains a unique serial number and the common name ''polar bear'' to the hide which must remain fixed indefinitely to the hide as proof of legal import; and

(ii) Service personnel must permanently mark upon import the parts of the trophy other than the hide, such as the skull and bones, with the hide tag number; and

(8) If the tag comes off the hide, you must within 30 days:

(i) Contact the nearest Service office at a designated port or a Law Enforcement office as given in § 10.22 of this subchapter to schedule a time to present the trophy for retagging;

(ii) Provide as proof that the trophy had been tagged and legally imported a copy of the:

(A) Canceled CITES export permit or re-export certificate;

(B) Cancelled U.S. import permit issued under this section; or

(C) Cleared wildlife declaration form (3–177); and

(iii) Present either the broken tag, or if the tag was lost, a signed written explanation of how and when the tag was lost.

(f) *Duration of permits.* The permit will be valid for no more than one year from the date of issuance.

(g) *Fees.*

(1) You must pay the standard permit processing fee as given in § 13.11(4) when filing an application.

(2) You must pay the issuance fee of $1,000 when we notify you the application is approved. We cannot issue an import permit until you pay this fee. We will use the issuance fee to develop and implement cooperative research and management programs for the conservation of polar bears in Alaska and Russia under section 113(d) of the Marine Mammal Protection Act.

(h) *Scientific review.* (1) We will undertake a scientific review of the impact of permits issued under this section on the polar bear populations in Canada within 2 years of March 20, 1997.

(i) The review will provide an opportunity for public comment and include a response to the public comment in the final report; and

(ii) We will not issue permits under this section if we determine, based upon scientific review, that the issuance of permits under this section is having a significant adverse impact on the polar bear populations in Canada; and

(2) After the initial review, we may review whether the issuance of permits under this section is having a significant adverse impact on the polar bear populations in Canada annually in light of the best scientific information available. The review must be completed no later than January 31 in any year a review is undertaken.

(i) *Findings.* Polar bear sport-hunted trophies may only be imported after issuance of an import permit, and in accordance with the following findings and conditions:

(1) We have determined that the Northwest Territories, Canada, has a monitored and enforced sport-hunting program that meets issuance criteria of paragraphs (d)(4) and (5) of this section for the following populations: Southern Beaufort Sea, Northern Beaufort Sea, Viscount Melville Sound (subject to the lifting of the moratorium in this population), Western Hudson Bay, and M'Clintock Channel, and that:

(i) For the Southern Beaufort Sea population, no bears are taken west of the equidistant line of the Beaufort Sea;

(ii) For all populations, females with cubs, cubs, or polar bears moving into denning areas or already in dens are protected from taking by hunting activities; and

(iii) For all populations, management agreements among all management entities with scientifically sound quotas are in place; and

(2) Any sport-hunted trophy taken in the Northwest Territories, Canada, between December 21, 1972, and April 30, 1994, may be issued an import permit when:

(i) From an approved population listed in paragraph (i)(1); and

(ii) The issuance criteria of paragraph (d)(1), (2), (3), and (6) of this section are met.

Dated: February 7, 1997.

George T. Frampton, Jr.,

Assistant Secretary for Fish and Wildlife and Parks.

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